42 Mr. Berdan

Ack Sept 7.

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No 117 One Enclosure.

United States Legation
Peking, July 11th, 1876

DEPARTMENT OF STATE
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1876

George F. Seward to
the Secretary of State.

Subject

The Ward Corps claims.

Synopsis.

Mr. Seward proposes to bring them before the Chinese Government. Encloses copy of his letter.

No. 107. One Enclosure.

United States Legation

Peking, July 11th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:-

Referring to your instructions to Governor Low, number 96, and to Mr. Avery, number 19, in regard to certain claims known as the "Ward claims," I have now the honor to hand to you a copy of 1/107 a letter which I am addressing to the Foreign Office, asking for an interview, with a view to dispose of the matter at issue.

As I am thoroughly conversant with the whole history

history of the claims, their submission to arbitration, etc., I may be able to present the matter to the Government in a way calculated to secure attention. I shall, of course, report to you every step of my procedure.

I have the honor to be,

Sir,

Your obedient servant.

Geo. F. Seward.

Enclosure

Mr. Seward to Prince Kung.

Despatch No. 107
Inclosure.

Mr. Seward to Prince King.

Peking July 11th 1866.

I beg leave to recall the attention of H. I. H. and the Members of the Foreign Office to the claims against the Government of China, for stores etc. furnished to the Ward Force at Shanghai.

These claims were submitted to arbitration at Shanghai, and in the month of January, 1864, the arbitrators made their award. This award declared certain of the claims to be just. Of these just claims a part only have been paid.

This subject has been the subject of several discussions, oral and written, between this Legation and the Foreign Office, but no conclusion has ever been reached. It has also been brought before the Government at Washington,

and

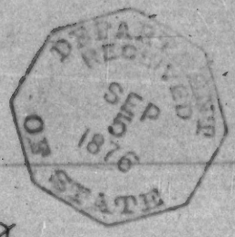
and on two occasions, one of these being recent, the Secretary of State has expressed the opinion that the claims are just ones, and should be paid.

It is very desirable that such matters should be finally closed up and finished, so that there may be no occasion for dissatisfaction existing. I propose therefore to call at the Foreign Office on such day as may be convenient to you, or to other Members of the Ministry in order to decide with you what shall be done in regard to these claims.

I have, etc

(Signed) George F. Seward

Ack. as invited Sept 7.
Mr. Bertau
Ack. and say that the subject shall receive early consideration. Mr O'Connor will examine and report at the earliest moment.



No 108.

Three Enclosures.

United States Legation,

Peking, July 11th, 1876

Answered as per draft Sept 21.

George F. Seward to the Secretary of State.

Subject.

Hill vs. Takee.

Synopsis.

States the case. Will ask the Foreign Office to consider it. Asks instructions.

No. 108. Three Enclosures.

United States Legation

Peking, July 11th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:—

During the last year, I had in hand, at Shanghai, a claim advanced by one of our countrymen, named Hill, against the estate of a Chinese, named Gang Ja Kee, for the use of a steamer, called the "Kor Jeor," and for her loss while under charter.

The steamer was used for military purposes. Her service began while General Ward was in command of a Chinese contingent

contingent force at Shanghai, and was continued under Burgevine and Holland, who successively commanded the "Ward Corps", and Macartney, who had a similar employment. When Burgevine was dismissed from the command, a great many claims against the Military Authorities were outstanding. These were brought to me, and I tried to get the Taotai, Woo, who had had charge of military matters in our district, to settle them. By agreement between us, Arbitrators were appointed, who, in due season, made a report. A claim of Hill, amounting

amounting to 12,000 taels, was among those presented, and was allowed by the arbitrators in full. Later on, the Taotai made so many objections to the award generally, that I was induced to enter upon an examination of its merits, and found that many claims had been admitted which were not good ones. I was not disposed to urge unjust claims, and I proposed, and Woo agreed to, a second arbitration. The different claimants did not go before the arbitrators, on this occasion, but I appeared in their behalf, and Woo appeared in person. Hill's claim for

12,000

12000 taels was presented by me, and was rejected by the arbitrators, because there was no evidence that Woo had engaged the services of the vessel. Somewhat inconsistently, however, they allowed certain claims for wages, etc. of persons employed upon her.

In presenting the case to the arbitrators, I was acting in good faith, but, as it has since appeared, I was only partially informed of the facts.

The charter began on the 1st of September, 1862, and was effected, through General Ward's agency, between Hill and Fa Kee. Ward died in September, and when the first arbitration was held

held in March, Takee appears to have asked Hill to present to the arbitrators an account for the services of the vessel for the months of October, November, December, 1862, and January 1863. giving certain reasons therefor. When I came to prepare matters to present them to the second arbitration, I sent for Hill, and he made before me an affidavit, which is given in the printed minutes of the case Hill vs. Takee's Estate, transmitted herewith, at page 43. Beyond this affidavit, and the knowledge of the arbitrators that the steamer had been used by the Military forces, I had no evidence to put before them.

them. That I did not think the case a good one, under a strict view, will be indicated by the memorandum upon it, made by me at the time, which will be found on the page of the printed book to which I have just referred. I never doubted, however, that Hill had an equitable case, and at the time I believed that his equity was against Woo, or rather against the Government represented by Woo. I knew that the steamer had been much longer in use than the four months, but upon an understanding which I had reached that Hill was effecting a settlement in another way, for the remaining time, I paid no attention to that part of the matter.

From

From time to time thereafter, I heard that Hill was at work with Sakee about his matters, and it was only after the lapse of a considerable period that he came to me. I was a good deal indisposed to touch the business, and avoided even conversations in regard to it. I should trace this feeling of mine to an impression that there was something illogical about the case. Finally, however, Hill presented to me a formal petition against Sakee's estate that given in the minutes of the case, and having referred this to the Legation, and received an instruction to proceed, I brought the

the case before the local Authorities.

At first sight, Hill's affidavit is not readily reconciled with his statements of his agreement with Takee. But the fact is that Hill was an enterprising man, with a great deal on his hands, and with the hopeful side of his nature more developed than the other. A more cautious man, indeed, would have collected his charter money monthly. It is not, however, astonishing that he should have dealt with Takee and Burgevine interchangeably, without much care in separating them. The one appeared to be, more or less, in

in charge of the money affairs of the Board Corps. The other was its Commandant. How far Lake was acting for the Government, he could not well know. It was not illogical to suppose that both he and Burgevine were acting for it.

At any rate, an examination of the whole matter will indicate to you:

1st. That Hill chartered the steamer to Lake;

2nd. That she was used for military purposes;

3rd. That Hill has never been paid;

4th. That nothing has been done by him, which could rightfully be held to release Lake, or his

his estate.

You will think that this, altogether, has been a most irregular business. In another sense, it must be dealt with, if at all, in an irregular way. Hill is not satisfied with the judgment which the Taotai has given, and has appealed to me to bring the case before the Government. He has no other way of appealing, and so, if the matter goes on, I must act, more or less, as the advocate of his rights, and, in doing so, appear, not before a Court, but before the Foreign Office. The whole business illustrates well, the statements which I have

heretofore

heretofore made to you of the imperfections of the Chinese judicial system, as it affects foreigners.

I propose, now, to place the matter before the Foreign Office, but I shall do this in a cautious way. At the same time I have respectfully to ask for your instructions in regard to it. These can reach me before my discussions with the Members of the Foreign Office have proceeded very far. They are very likely, indeed, to make a reference to the Provincial Authorities, which will consume more or less of the time, until your instruction shall arrive.

Mr.

Mr. Hill is in America, and may address you in regard to his case.

I have the honor to be,

Sir,

Your obedient servant.

Geo. F. Seward

Enclosures.

1. Printed Book – Minutes of the Court Hill vs Takes Estate.
2. do do Conversations with Tabtai regarding the case
3. Mr. Seward to Prince Kung.

Despatch No. 108
Enclosure 3.

Mr. Seward to Prince Kung.

Peking, July 11th, 1876.

I desire to call the attention of Y. I. H. and the Members of the Foreign Office to the inclosed pamphlet, in English and Chinese, giving the evidence in a suit brought before the Taotai at Shanghai by an American citizen named Hill, against the estate of Yang Yakee to recover the charter money of the steamer "Keo Jeo" and indemnity for her loss.

The Petitioner is not satisfied with the judgment, a copy of which also I enclose, and as it appears to me that his case has not received the consideration which it deserves, I shall be glad to meet Y. I. H. or such Members of the Foreign Office as may be able to attend a conference in order to determine what steps should be taken.

I have &c

(Signed) George F. Seward

Seward.

Case of Hill vs. Ta Kee

North Atlantic Sq. No. 108. from Yiv.

In 1862, Ta Kee, Tai Tsuen of the "Ward Corps" chartered from Mr Hill the steamer Keon Jeon. The contract was for four months use of the steamer at Taels 3000 per month. She was retained by Gen Ward for ten months after expiration of the contract when she was captured and destroyed by the rebels. Mr Hill claims:—

For charter and use of steamer from June 1st 1862 to May 1st 1863 - 14 months at Taels 3000 per month - - - - - - - - - - Taels 42000
Indemnity for loss " 12000
Taels 54000

In instruction No 85 from the dept to Mr Seward it was suggested that Taels 1200 for use of the vessel for four months and Taels 12000 for her loss with interest to date would be the proper measure of damages in the case.

Mr Seward summarizes in his despatch No 108 as follows:—

1st That Hill chartered the steamer to Ta Kee.

2nd That she was used for military purposes

3d That Hall has never been paid

4th That nothing has been done by him which could rightfully be held to release Lee or his estate.

The claim is brought before Mr Seward on appeal from Judgment of Taotai of Shanghai and Mr Seward has presented it to the Foreign Office but is met by trivial excuses and unnecessary delays. He appears to be unprepared for instructions to demand a settlement of the Hall and Ward claims by the Chinese govt. On the 2nd September last Mr Seward was instructed to continue his efforts for the settlement of the claim (instruction No 85) Mr. Seward's despatch No 442 (rec'd 14th inst.) gives the latest phase of the case

HILL vs. TA KEE.

MINUTES OF THE COURT

INCLUDING

PLEADINGS

AND

ARGUMENTS OF COUNSEL

IN

ENGLISH AND CHINESE.

SHANGHAI:
AMERICAN PRESBYTERIAN MISSION PRESS.

1875.

Before GEO. F. SEWARD, Esq., U. S. Consul-General.

AND

H. E. SHÊN, Taotai;

Dr. YATES acting as Interpreter.

CHARLES E. HILL *versus* YANG TA KEE.

SHANGHAI, *January 9th*, 1875.

Mr. I. B. EAMES appeared for the plaintiff.

Mr. DRUMMOND and Mr. COWIE for the defendant.

This case, being a claim made against the representative of the late Ta Kee, for Tls. 54,000, and eleven years interest to be added thereto, in respect of the alleged charter of a steamer named the *Keorjeor* in the year 1862, by the local authorities, to assist in the suppression of the rebellion, came on for hearing, to day.

THE PETITION.

The *representation* and *petition* of Charles E. Hill, an American citizen, humbly sheweth as follows:—

1*st*.—That in the year (1862) Eighteen hundred and sixty two, General Frederick T. Ward (also an American citizen), was in command of a Force of disciplined Chinese troops officered by Europeans, (known as the "Ever victorious Army"), acting for and in concert with Chinese officials against the Taiping Rebels, who at that time held the cities of Nanking and Soochow, and the great plain of the Yangtsze Kiang between those cities and Shanghai.

2*nd*.—This force was stationed at Sung Kong, but General Ward drew all supplies for it from Shanghai; and the wages of the troops as well as all contingent expenses of the Force, were paid by Ta Kee, then Government Treasurer and residing at Shanghai.

國官憲以官軍在高橋初次戰賊得勝之處即取名高橋輪船所立租契係來滬親來商行適有外國帶來新小火輪船一隻適得其用當即租定奉中風浪亦無虞賊擄旋經泰記囑令華爾立租一船備用同治元年五月華爾途常被賊阻經華爾與泰記面商必再需一小火船轉運方可便捷且不避理當時軍務緊急之際往來轉運逐日甚繁初因雇用篷船不能迅速且沿領兵合剿札營松江糧餉軍械由滬運去其一切支放各項皆係楊泰記經年五月間髮賊下竄江蘇全省幾盡爲所距時有美國人華爾代中國出力狀師代辦案據美商熙爾稟稱竊英一千八百六十二年六月分即同治元暨共欠十一年利銀一案原告係延愛密狀師代辦被告係延狀門暨高易日會審美商熙爾控楊泰記欠高橋輪船租價並賠船價銀共五萬四千兩大美欽命駐紮上海管理本國通商事務總領事西大清欽命監督江南海關分巡蘇松太兵備道沈

於同治十三年十二月初二

3*rd*.—This necessitated constant communication between Sung Kong and Shanghai, which was mostly carried on by means of sailing boats, and these, owing to head winds and tides, were often delayed, causing great inconvenience, besides running great risk of being captured.

4*th*.—Ward therefore demanded of Ta Kee an additional steamer for this work, to ensure both safety and dispatch.

5*th*.—In reply to this demand, Ta Kee ordered Ward to charter a suitable steamer to be used as a dispatch boat, and Ward did, in the month of June, 1862, charter from me, the said Hill, a new steamer which the Chinese Officials named the "*Keor Jeor*," after a town near the mouth of the the Whangpu river, where by the aid of Ward they gained their first important victory over the Rebels.

6*th*.—The Charter-party was written in English and Chinese, and was signed by both Ward and Ta Kee, and also bore the official chop or stamp of Ta Kee. It was for four (4) months certain, at the rate of Taels (3,000) Three thousand Shanghai Sycee per month, with the stipulation that the same sum should be paid for each and every additional month the steamer should be used by the Force, and contained an indemnity clause agreeing to pay in case of her loss a further sum of Taels (12,000) Twelve Thousand. It was further stipulated that the Charterers should furnish coals and stores and pay all wages and other expenses while so employed, reserving to themselves the right to appoint their own officers and men to command her, and to remove them without reference to me. The charterers were also allowed at their own expense to build a gun-deck and magazine, and make such other alterations as might be necessary to fit the steamer for active service as a gunboat if so required.

7*th*.—The steamer was taken possession of by Ward early in June 1862; was used by him for the Force until his death in the following September; then by Burgevine, his successor, until some time in January, 1863, when in consequence of a quarrel with Ta Kee, the before mentioned Government Treasurer, he was dismissed; then by the officials in com-

商被該營所欠之欵羣向泰記索討而吳道臺謂因白齊文怠慢泰記概不
年六月十七止共租用將及十四個月時因白齊文經吳道臺撤委凡有各
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二需工價料作由租主自備立契後卽于五月初五日將船交與華爾駕去專
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租銀三千兩倘以後再欲租用按月仍照三千兩付租如船碰壞撞沉以及
合寫英漢兩文由楊泰記簽名蓋戳華爾畫押英文註明包租四個月每月

mand of the Sung Kong Force until her capture on the first day of August following.

8*th*.—The steamer was therefore in the constant employ of the Sung-Kong Force, from the time of her being taken possession of by Ward until her capture (about fourteen months).

9*th*.—After the quarrel between Burgevine and Ta Kee, and his dismissal from the command of the Force by the Taotai in consequence, all claims against the Force were immediately sent to Ta Kee for payment, but, owing to the treatment Ta Kee had received from Burgevine, Woo, Taotai, refused to sanction the payment of any outstanding claims against the Force. Application was therefore made to your Honor,* for assistance in their collection. The result of this application was an arrangement between your Honor and Woo, Taotai, by which John Kearny Rodgers and Frederick H. B. Jenkins were appointed Arbitrators to examine and pronounce upon all claims by American citizens against the Force.

10*th*.—After the appointment of these Arbitrators, Ta Kee (with A. L. Freeman Esq., acting for Ta Kee), came to me and earnestly requested me to put in a claim before these Arbitrators for the use and charter of the steamer while Burgevine was in command of the Force, about four months, stating as his reason, that if he paid any of the expenses of the Force while under the command of Burgevine, more than had been paid, without the sanction of Woo, it would not be allowed in his accounts, but he agreed to pay all due on the charter both before and after this time, to continue the steamer in use, and if I failed to collect from the Arbitrators he would eventually pay me for the four months charter also.

11*th*.—In accordance with this request I appeared before the Arbitrators, gave into their possession the charter-party, claimed under it Taels 12,000, for her use, four months, and was allowed the full amount claimed.

12*th*.—This award was not paid, neither did Ta Kee pay as agreed, and the first time thereafter that I saw the steamer in Shanghai, I took

* This Petition was addressed to the U. S. Consul General.

留下是必令我爲難現因軍餉支絀之際且須急發兵餉以便攻克南京更之下當據泰記來行云及現有官員在船因要事來滬急待回松你若將船商見高橋輪船來滬即將船扣留意欲須將先後各欵付清方可放回扣船應付四個月租金一萬二千兩嗣因此項銀兩及泰記面許之欵皆未付還等語商即悉照其意將所立租契交會斷之人請照四個月斷還已蒙斷准仍前租用總當照付即使四個月租價會斷之人如不斷還我亦照數算還付出恐將來着他認賠其白齊文接手以前及撤差後已租之欵並以後如計四個月租價開賬送請公斷緣此項係吳道臺未曾允還之欵伊若先行友美國人費爾文來行面懇教我祇要將白齊文接帶之日起至停差日止鎮西貴總領事洛其二人會斷美商控欠之欵當將斷之時泰記邀同好允還故曾稟蒙貴總領事與吳道臺商允各洛一洋人公斷吳道臺係洛秦

possession of her with the intention of not allowing her to return to Sung Kong until the full amount due for her charter and use was paid.

13*th.*—This action brought Ta Kee again to me, who stated that the steamer came down with a Mandarin who had important business, and must return with the steamer at once, or he Ta Kee, would have great trouble; that I need not fear, for he would soon pay me every dollar; that he was hard pressed for funds to keep the Force together; that he had paid out large sums to fit out an expedition against the city of Nanking which had failed to start, causing him much trouble to raise money at all; that there were still large sums due the English Government for guns, stores and ammunition, which must be paid at once or they would not assist in taking Soochow and Nanking, in which case he would lose his place, his official rank and perhaps his head; and he begged of me to wait until Soochow was taken, when he could easily raise money and would pay all.

14*th.*—Knowing some of these statements to be true, I released the steamer, and allowed her to return, and shortly after an arrangement was made with Ta Kee whereby he agreed to pay me the full amount due on the charter, and in consideration of the amount of the charter money being so large, I agreed to sell him the steamer outright for an additional sum of Taels (8,500) Eight Thousand Five Hundred. A bill of sale was made to some Chinese official whom he named, and together with a memorandum in both English and Chinese, showing the exact amount to be paid me, were deposited in the safe of Mr. B. R. Lewis, then a clerk in the U. S. Consulate-General, to be delivered to Ta Kee when ever he should present my order for the same.

15*th.*—None of this money has ever been paid to me as agreed, and neither the charter-party, bill of sale or memorandum, have been in my possession since delivered up as within mentioned, nor can either of them now be found.

16*th.*—Shortly after this arrangement was made, the steamer was

數付清及待至南京克復又赴泰記處追索時泰記有病許以十日就還乃商即親赴泰記討索前項而泰記仍懇從緩指日俟蘇省克復定將本利如欠之契共三紙迄今遺失無存前自結賬之後聞信是船在松江被賊擄去其所結之租船銀及賣船銀不特分毫無付即先後所立之租契買契及結人魯意鉄箱內收藏並面囑魯意此後如泰記持有我親筆信來方可交契同買船價若干共立一紙俱寫用英漢文字此項兩契係存美署寫字之洋船價銀八千五百兩以作賣絕當立買船契一紙並另立所欠租價若干連租價月費甚鉅懇將船價讓小買用兩相允定除先後應付租價外另加買說尙係實情隨即將船放回不幾日與泰記結算租價據泰記面商以此船我泰記罪莫可逃務請寬懷待蘇省克復即掃數付清云云商因知泰記所有所購英商軍械等價迫于急付否則該商不肯接濟當此之時倘或悞事

captured, while towing the Taotai's or Viceroy's chop to Sung Kong, or immediately after their arrival at the Sung Kong Creek.

As soon as this news reached me I went at once to Ta Kee and demanded the money due me, when he again begged me to wait until Soochow was captured, which would be in a few days at most, when he would have plenty of money, and would pay me all with interest.

17*th*.—I waited on until Nanking was taken, after which I went to his house and again demanded the money due me. He was then sick, but promised to pay in ten days. After the ten days expired, I went often to his house, but he was always too ill to see foreigners, and I never received any part or portion of the money due me for the use or loss of the steamer.

18*th*.—After Ta Kee's death, Mr. Yates went to see the wife and heirs of Ta Kee. She did not deny the debt, but said she would pay in full on production of the charter-party, but although diligent search has been made for it, it cannot be found.

19*th*.—In support of my own statement that such a charter-party did exist, I hand in the sworn statements of John Kearney Rodgers and Frederick H. B. Jenkins, the before mentioned Arbitrators, and also of E. S. Benson, who for a time was Quartermaster-General to the Force, all of whom have seen it, and had it in possession.

20*th*.—I hand in also the statement of J. Howard Nichols, who purchased the steamer for me in sections as she was shipped from England, who is cognizant of her erection here by me, of her subsequent charter through Ward for the use of the Force, and constant employment by the Force until her loss.

21*st*.—As collateral proof of the existence of such a charter-party there are the undisputed facts, that the steamer was in the constant employ of the Force for more than one year; that she was furnished with coals by the Chinese officials during this time; that they did alter the

輪船面上小屋折去改裝砲位火藥房人皆知其作爲兵船之用四雇用船二泰記凡向某行所購煤斤係發某輪船之用該行尚存有賬簿可查三該在有契可以查問之有四焉一高橋輪船經泰記租用一年之多人所共聞代泰記租的專走松滬後來被賊擄去均求訾核可憑而商更有論者其實曾見過又有聶戈耳口供即從前經手代買此項輪船者渠亦深知華爾係會斷之時經手眼見並有前總管該營糧臺之朋生現亦遞具親供伊手亦不見然商之所言實有契據並非虛揑之詞現有秦洛二人所呈親供當其來我當照付本利伏思此項之契自交秦洛二人公斷之後雖已遺失至今妻及司賬之人詢問前項而伊妻並未圖賴不認惟用手接狀口稱你拏契毫無歸泰記故後有能通華語之晏瑪太商曾托其前往泰記家中面晤其十日已逾不時往追而泰記病重不能見客此後泰記已故致此項本利分

steamer to a gunboat by building a gun-deck and magazine, and arming her as such; and that they did place their own men in command of her and discharged them at pleasure. As positive proof of this last fact, one C. F. Jones, whom they had appointed to command her, was accused by the Mandarin in charge of the steamer, of having struck him, when he was immediately discharged by the Taotai, and his place filled with a Chinese Captain.

22*nd*.—Charles J. Ashley, Quartermaster-General and Paymaster of the Force under Ward; J. F. McLaughlin, Engineer of the steamer *Confucius*, also employed by the Force; Mr. Lambert, who made repairs to the steamer while employed by the Force, and others, both foreign and Chinese, are still residing in Shanghai, and can be produced to testify that the steamer was in the employ of the Force as above stated.

23*rd*.—In view of these facts, I most respectfully beg to submit my claim as follows:—

For charter and use of steamer *Keor Jeor* from June 1st, 1862 to August 1st. 1863—14 months at Tls. 3,000 per month.....Tls. 42,000
Indemnity for her loss as per charter..... „ 12,000

Taels 54,000

With interest on this sum at such rate as to the Court may seem just and proper.

24*th*—I therefore humbly pray that your Honor will take such steps as to you seem fit and proper to secure payment by the representative of Ta Kee, or by the Chinese Government, of the amount of my claim as above stated, and your petitioner will ever pray, &c.

(Signed) CHARLES E. HILL.

代被告楊泰記質訊之傅宜納稟訴熙爾控告一案緣由開後
國家賞還實為恩便上稟
大人酌定統祈飭令楊泰記子孫照數繳還或請中國
五萬四千兩至同治二年六月十七日起至今應付利銀若干仰候　會審
月每月租銀三千兩共銀四萬二千兩又賠償船價銀一萬二千兩兩共銀
日止即華同治元年五月初五日至二年六月十七日止計共租用十四個
六
茲特稟呈計英一千八百六十二年六月初一日起至六十三年八月初一
以面來質証請詢明便知所稟是實也所有泰記應欠租船價及買船價銀
船上管輪之勞令並有承修高橋輪船之藍倍另有中外多人現住上海可
道臺撤去此外尚有前在華爾營中為採辦之愛喜來又有曾在孔夫子輪
主或留或停係泰記自主所以前用之狀取船主因與在船華官不合經吳

The Answer.

In answer to the said petition the said Defendant says as follows:—

1*st*.—That owing to the great length of time the Plaintiff has allowed his claim to lie dormant, and to the fact that so many of the persons principally concerned, (namely Woo, Taoutai, Ta Kee, General Ward, and Burgevine) are now dead, the Defendant finds it impossible to reply in detail to the various allegations set forth in the Plaintiff's petition.

2*nd*.—That the Defendant is informed and believes that the late Ta Kee did, at the time mentioned by the Plaintiff, and as admitted by the Plaintiff, act as Banker and Agent for the late Taotai, Woo, and in such capacity and for and on behalf of said Taotai did from time to time pay monies to the Forces engaged by the said Taotai in the suppression of the Tai-ping rebellion, and for and on behalf of the said Taotai was concerned in the recommendation of steamers to be used by the said Taotai to aid the said Force. And the defendant has been informed and believes that the said Taotai did so engage several foreign steamers and affix his seal on the charters thereof, but no record has come to the defendant's knowledge of any charter of the steamer *Keor Jeor*, and he does not believe any charter of said steamer was ever made by the said Taotai or the said Ta Kee.

3*rd*.—That it is incredible that the said Ta Kee chartered for the said Taotai the said steamer on the terms stated by the said Plaintiff, namely, for four months at Taels three thousand per month, when the price of the said steamer was fixed by the said Plaintiff at Taels twelve thousand only.

4*th*.—That the Defendant has been informed and believes that soon after the suppression of the rebellion a claim similar to the present one was put forward by the Plaintiff in respect of the said steamer *Keor Jeor*, and that the same was referred to Messrs. Cunningham, T. Hanbury, and A. A. Hayes, as Arbitrators, and that by their award the said claim was disallowed.

之上

五楊泰記並無官用圖章且斷不能將自己所用圖章代官府印在租船契當由金能亨漢璧禮二人公斷在不應還之列

四我曾聽說並相信那時剿退髮賊之後原告即討此項欵銀一萬二千兩船四月每月認出租價銀至三千兩之多

七

三照原告自己所定船價銀一萬二千兩之數而論顯知吳道臺斷不肯租未曾看見賬上有吳道臺或楊泰記租有高橋輪船一事

事並代支應兵餉軍械等事又代經手覓租輪船幾隻立契蓋用圖章但

二我曾聽人說過並相信原告所說那時楊泰記實係代吳道臺有經辦各所以不能詳細回復熙爾禀控之事

一查此事已歷多年且經辦之吳道臺楊泰記華爾白齊文均已身故現在

5*th*.—That the said Ta Kee had no official seal, and it was not his practice either to sign or impress his private seal on the charter of any steamer so hired as aforesaid.

6*th*.—That the reference to arbitration referred to in the 9th paragraph of the Plaintiff's petition was, as appears by the said petition, made at the instance of the said Taotai, Woo, and his Honour the American Consul-General, for the consideration of the Plaintiff's claim as against the Taotai, Woo, for service rendered the Government Forces and not as against the late Ta Kee personally.

7*th*.—That throughout the transactions referred to by the Plaintiff, he the Plaintiff fully recognized the position of the late Ta Kee as Agent merely of said Taotai, Woo.

8*th*.—That by the 28th Article of the Treaty between China and the United States of America, it is clearly laid down, "that if controversies "arise between Citizens of the United States and subjects of China which "cannot be amicably settled otherwise, the same shall be examined and "decided conformably to *Justice and Equity* by the public officers of the "two nations, acting in conjunction," and in accordance with such principles the lapse of time alone is sufficient to bar the recovery of any such-claim as that of the Plaintiff, even had it ever been admitted to be valid.

9*th*.—Under the circumstances hereinbefore appearing, the Defendant submits that there is nothing due to the Plaintiff from him as the representative of the late Ta Kee, or from the estate of the late Ta Kee and humbly submits that this honorable Court should dismiss the petition of the Plaintiff, with costs.

Mr. Eames first called the Plaintiff,

Charles E. Hill, who, sworn, deposed to the facts contained in his petition.

The Taotai asked what had become of the steamer?

一 熙爾供控楊泰記緣由前已稟明在案　沈道憲問高橋輪船現在何

原告狀師問

美總領事西
江海關道沈　會審人証口供開後

告稟控

九照我以上稟訴情由楊泰記並不欠租船銀兩所以請兩國大人不准原

云縱使原告所控之屬實惟歷年以久應作罷論

相爭不能以和平調處者即須兩國官員查明公議察奪等語按以上云

八查美國與中國所議和約內之第二十八欵載有美國人與中國人因事

七熙爾稟內前後亦稱楊泰記係代吳道臺經手之人

所派公斷許多之賬等語並非向楊泰記索欠係向吳道臺討國家之欵

六查熙爾稟內稱有曾派公正人斷過公正人係吳道臺與西總領事商同

The CONSUL GENERAL replied that all such facts would be shown in the hearing of the case, and would be explained to him as it proceeded.

Plaintiff's examination resumed—I came to Shanghai in 1860, and left for a time in January, 1866. I was familiar with the proceedings of the Force known as "The Ever-Victorious Army," and General Ward's command. I furnished supplies to the Force, my dealings being entirely with Yang Ta Kee. The final arrangements under which Ward was to take command of the Force, were made through me. I introduced Ward to Ta Kee. I never had anything to do with Woo, (the then Taotai of Shanghai,) nor did I know that he had anything to do with the Force until I filed a claim with the first Arbitrators, Messrs. Jenkins and Rodgers, for only four months' charter of the steamer, because Ta Kee asked me to do so, the steamer being then in use. I never filed any other claim, until this petition. I know by common report and newspaper report, that the steamer was captured somewhere about the 1st August, 1863, near Sung Kong. This information I got from Dr. Macartney, who was there. The steamer has never been returned to me, nor has any offer been made to return her to me. I see the Defendant's answer speaks of my long delay in making this petition, but I repeatedly sent in a claim to Ta Kee up to the time of his death; after that event to his wife; and until I went home in 1866, when I left the case in the hands of Dr. Yates. I returned from America at the end of 1867, or at the beginning of 1868,—within a month either way. Ta Kee often promised to pay me; but when I applied to his widow and son, I was told I must wait until her period of mourning was over. While I was so waiting, it happened that my own family affairs made it necessary for me to go home. Ta Kee, and others connected with him,

歸還直待到泰記身故未曾還過一文我後來又向泰記之妻索還據
事隔多年何不早爲稟控等語然此項從前屢次向泰記索銀均允許
里對我說的惟此船至今並未還我現閱被告訴詞內有駁我于此案
高橋輪船係於同治二年七月間在松江小浜內被髮賊搶去係馬格
我的賬祇將四個月租價開呈緣此欵係泰記囑我向吳道臺索還者
管不能知悉我祇認楊泰記一人是了前經秦鎭西並洛其二人公斷
交接一事及至白齊文與泰記不合之時而常勝軍是否有吳道臺經
處買的其戰事一切係華爾與泰記面商當時吳道臺我不認識並未
的華爾領兵是我舉荐那時我賣與該營物件甚多皆係泰記親來我
百六十年到上海六十六年離上海松江常勝軍營中之事我都曉得
處而　西總領事云且俟訊得口供便可知也熙爾又供我係一千八

never denied that the steamer had been used. I have never received one *cash*, for the use of the steamer, or for indemnity on account of her loss. When I returned to Shanghai in 1867 or beginning of 1868, I was in the employ of Jardine, Matheson & Co., and they sent me to Newchwang, where I remained three years. After I left Newchwang I again went home, and when I returned after that occasion, almost immediately Mr. Seward went to America. These circumstances will account for a great deal of the delay that has occurred. As soon as Mr. Seward returned to Shanghai, I lost no more time, but immediately entered my plaint.

Cross-examined by Mr. DRUMMOND.—On my first departure from Shanghai, I was absent about two years. It was in March, 1868, that I left Shanghai for Newchwang. I remained at Newchwang until the fall of 1870—not quite three years. I then returned to Shanghai. At that time I had business that took me south, to Canton and other places; and also to Japan. I left Yokohama, in February, 1871, for America, and remained home one year, returning to Shanghai about May, 1872. I have remained here with the exception of short absences to Pekin and elsewhere, ever since my last arrival. I have talked over my private affairs with Dr. Yates frequently, and have probably had casual conversations on the same subject with others of my friends. I can give you the names of some with whom I have conversed ;—they are Mr. Seward, Dr. Yates, Mr. Eames, Mr. Bradford, Mr. Vail, Mr. Keswick ;—with the latter, because he was agent and trustee for the other party. At Newchwang, too, during the two or three years I was there, I dare say I talked to

洋橫濱動身回國在家又將一年至一千八百七十二年五月回滬除上海又派我赴廣東各口以及東洋等處於一千八百七十一年由東八年春間去牛庄至一千八百七十年秋間止在牛庄將及三年方回熙爾又供我初次回國在家躭擱將有二年始回上海一千八百六十

被告狀師問

領事回滬我即具稟呈控等語

迨由外國回滬適值西總領事又返美國所以因此躭延年久嗣西總上海我幫怡和洋行爲夥東人派我赴牛庄行內管事三年復又回國向泰記妻室討過嗣於一千八百六十七年底六十八年初由外國回即于一千八百六十六年動身回去即將此事託晏瑪太經辦其亦曾稱須除服之後方可理處我靜候之下因我外國家內有事急須回國

some persons also;—it was very likely in a small community like that. I have not, to my recollection, made this claim the subject of special conversation. I spoke to Mr. Albert Knight, at Newchwang, but do not remember any one else, except Dr. Yates, who was with me at Newchwang for a time. I cannot specify any others. I claim Tls. 54,000 and interest. I have never forgotten the fact of my having this claim. I have never made my property or expectations in regard to this claim, the subjects of special conversation. I am not in the habit of mentioning my private affairs or special prospects to any one promiscuously. Dr. Yates is, I believe, the only person who knows how much I am probably worth, but I do not believe there is one man in the world who knows what I owe, or who owes me, or what I am worth. I may have mentioned the particulars of my property to one or more of my private friends.

Only one charter-party was signed by me, but my name appears in the charter-party twice. It was also signed by Ta Kee and Ward. Th latter signed only by way of approval, and for no other reason. The charter-party proper was supposed to be in Chinese, but I wanted a translation of it in English. The charter-party was never renewed by Burgevine. I am not aware that he ever renewed the charter-party. He never did so with me.

The TAOTAI asked if, when the steamer was seized, Ward was still living

A negative reply was given.

船仍歸常勝軍租用並未另立租契高橋輪船被賊搶去那時華爾業漢字故繙譯英字合璧所以兩處簽名至于白齊文接帶之時高橋輪在上其華爾簽名作爲中人名分惟此契原以中國字爲主因不認識張契上簽名兩處一在中國字上一在外國字上泰記華爾均各署名並有自同治二年七月間起至今利息銀兩我所簽名之租契只有一事不便述與人聽我所討的船價租價等銀計共有五萬四千兩此外少只有晏瑪太略知然有無欠人之欵晏瑪太亦莫能詳悉緣我的私繙譯官賴德面前講過此外曾與別人道過不能記得惟我的產業多東人係代泰記經管各事之人故我向他說知我在牛莊時亦在美國太談談又與西總領事暨伯來福愛密怡和東人等面前談過緣怡和有時常赴北京等處外至今都在上海辦事我自己的私事常與晏瑪

The TAOTAI asked what had become of the charter-party?

A reply was given, that the plaintiff did not know. It had never been in his possession since it was given up at the first arbitration. Cross-examination resumed—When Ward died I took no steps with regard to the steamer or as to the renewal of the charter-party. I saw Ta-Kee sign the charter-party. I cannot read Chinese, but I know he took a Chinese pencil and wrote something. I do not know what characters he wrote. He signed what he said was his name. I have no doubt about its being his name. He also affixed a Chinese stamp to it—what we designate by the name of "chop." I saw him affix that also. I cannot describe what the chop was like. It was not much larger than the hong chop that is used by compradors, rather longer than wide. It might have been about an inch long. The charter party was signed at Ta Kee's private house, on Honan-road, where I did all the business with Ta Kee and Ward. Ta Kee told me it was his own chop. I never saw him affix the same seal to any other document, nor ever had any business with him requiring a chop seal. I do not know whether Ta Kee had any other seal of the same kind, or whether he had an official seal. I saw the charter-party after it was signed and sealed. I held the charter-party in my possession until some time after a man named Benson was appointed Quarter-master-General under Burgevine. I kept it in my possession until I was called upon by the Arbitrators to produce it in evidence, as to chartering the steamer for the four months. I then gave it up, and have not seen it since. When I had the charter-party in my possession, I have no recollection that it bore any other stamp or chop than the one I have mentioned. I know that when the

人公斷之後迄今並未見過我記得契上只有我說過泰記的圖印並執故也嗣因討還四個月租價時甫行交出以作憑據惟自交秦洛二或另有官用圖章皆不曉得此項租契我常常寓目緣這契在我處收印過緣我與他交涉此外無須用戳之事但不知泰記有無別項圖記面云此項圖章係他自用之件除此租契之外並未見他在別的紙上記屋內簽名印戳的即華爾同我與泰記往來作事之處當時據泰記知道形如生意行中通用者相似約有寸半之長其契係在江西路泰的就是他的名字並見他簽名後又蓋一圖章其戳內所刊何字不能見泰記簽名的但我不識漢字只見泰記執筆寫下泰記告訴我這寫後就未見過華爾故後我並未托人另寫甚麼租契所立之契我親眼已陣亡至遺失租契一節不知如何失去我將此契自交秦洛二人之

Nanking expedition was fitting out, the Taotai's chop was required. That was under Burgevine. I know that by seeing the other charter-parties afterwards, but I did not know it at the time. General Ward, Ta Kee, and myself were present when Ta Kee signed and sealed the charter party in question. Rodgers is an American citizen. I have put in an affidavit by him; I do not think he can read Chinese. Ta Kee went with me to Rodgers, and acknowledged the charter-party, and I believe we also went to Mr. Jenkins; but I have not thought of that matter at all;—you can ask him if you like. Jenkins was chosen as an Arbitrator entirely by Woo. He speaks and reads Chinese well. The steamer was chartered for four months certain, at Tls. 3,000 per month, and her value was set down at Tls. 12,000, though her cost to me was about Tls. 25,000. In case of the steamer being lost within the four months, I should have received Tls. 12,000 only and the money that was due upon her at the time; supposing she had been lost just after starting, I should have got Tls. 12,000 only. I did not agree with Ta Kee to wait until the whole of the province of Kiangsu was retaken from the rebels to be paid my money. When the disturbance took place with Burgevine, they were in great straits for money, and at the same time had to reorganise the entire Force, purchase heavy guns, etc. I was not in particular want of money at the time, and agreed to wait from time to time for payment. While I was waiting patiently for this money, I was, as a merchant, getting paid for other goods, as were also other merchants on account of other transactions. Ta Kee paid me $10,000 on account, but it was for the firm to which I belonged, and not to myself individually. My own personal money I waited for;—I did as I liked about that. Ta Kee and myself were friends, and I did more for him than I would for any other man in

並未允過待江蘇全省克復之後再還我的銀之說惟有白齊文怠慢只能照前議之船價數目向泰記討還一萬二千兩再有租價銀兩我云若論我的船本價銀二萬五千兩如從前在包租四個月內被失也租銀三千兩並註明此船如有遺失等事賠還船價銀一萬二千兩云秦鎮西能通華語並識華字高橋輪船租契內載明包租四個月每月去過現在秦鎮西尚在請即一詢可也秦鎮西係吳道臺所派之人蓋曾同我至洛其處當面認明租契不錯至秦鎮西處想泰記亦曾同我人與事至美國人洛其的親供我已呈到我想洛其不懂華語前泰記人在泰記屋內立契的只經泰記簽名蓋用泰記圖印此外並沒有別用吳道臺官印我曾經見過惟前租高橋輪船時係泰記華爾與我三無別印後來該營欲攻克南京時另租幾只輪船備用其所立租契須

China at the time. When Ward lay wounded, I gave up my own room to him, and sat up and nursed him. Ta Kee thought he was then going to die. My waiting for my money was in fact a matter of arrangement between Ta Kee and myself, because he said if I pressed him for payment it would inconvenience him. Ta Kee was alive when the matter was first submitted to arbitration, and admitted my claim at the interview with Rodgers, one of the Arbitrators. Mine was only one of a good many claims, and was included among them at his special request. He said if he paid any of the claims which arose under Burgevine's command, he would not get his money back again from Woo, Taotai. I therefore allowed mine to go in with the other claims, and depended entirely upon Ta Kee for payment. The difficulty in the way of paying me was not because Woo, Taotai, would not sanction my claim, but because of want of funds. I am not aware that any application was ever made to Woo, Taotai, on the subject. The newspapers reported at the time the vessel was taken by the rebels that such was the fact. Of my own positive knowledge, I am not aware that Burgevine had anything to do with her capture, but it was the general report that he had. The Chinese name of the steamer was *Keor Jeor*.

I do not know who gave her that name. Up to that time the Chinese had only got three steamers. I cannot tell you of any other steamer named after the name of a place, nor do I know what the Chinese names of steamers mean. There is the *Yungching* for instance, I do not know what that means. I do not know either that the Chinese name their steamers after quite a different principle to the names of places, such as "Good Luck," "Good Fortune," or some such names. I do not know whether, after Burgevine's dismissal, the steamers were in the hands of a

道臺將來不認我所以照泰記所嘱將白齊文接帶時四個月租價開嘱其斷還緣這些欵項係白齊文接帶時之事如泰記先行付還怕吳曾同我去當面嘱令秦洛二人要斷還的此外還有別項之賬泰記亦等銀恐于兵餉有碍所以我肯稍緩秦洛二人公斷時泰記尚未去世爾死去之故我討賬之時泰記說道現在需餉甚鉅如實在要還船價的房間讓與他住欵待一切都是我照應那時泰記常來看視恐怕華道殷實所以放心等待華爾打仗身受重傷時是在我行內養傷將我那時別無一個中國人如泰記與我知契者蓋因泰記係局面中人家記洋行洋壹萬元係向該行買物之欵非我之賬我與泰記最爲交好我因彼時不急用銀故允許稍緩有之我等待之下曾見泰記付來柝泰記的那時餉銀支絀又在整頓併嘗需購砲械等項泰記懇爲從緩

person named Holland. I do not think that Colonel Gordon had anything to do with her. I never made a claim upon either of those, or upon Dr. Macartney, for payment of this money. I do not know that she was at one time in the possession of Dr. Macartney at Shanghai. I have been told that she was, but I was not here at the time. It was after she had been recaptured. I was told she was here, having new boilers put into her. I do not know that Ta Kee was ever disgraced. He had some difficulty, but I never knew the facts—he would not be likely to tell me. I do not recollect if it was a matter of public notoriety. I never applied to any Chinese authority for payment of my claim. I agreed at one time to sell the steamer to Ta Kee for an additional sum of Tls. 8,500, and a bill of sale was made out then. That was in June or July, 1863 and was arranged on the ground that the sum due to me was so large. At the expiration of the four months, Ta Kee had the right to continue the use of the steamer as long as he chose, on the same terms. It was so stated in the charter-party. The steamer was not taken by the rebels during the currency of the first four months, nor until ten months afterwards, and she was in use altogether fourteen months. They never gave me notice that they wished to renew the charter-party at the same rate, nor that they wished to break the charter. No fresh agreement was made between us. I looked upon Ta Kee, at the time the steamer was chartered, as chief of Ward's Force. He originated the Force, and undertook all things necessary for it; and I do not believe any one ever saw Woo, Taotai in the matter. Ta Kee did all this, not as agent of the Chinese Government, but for the purpose of suppressing the rebellion; the clearing this province of the rebels. Ta Kee acted as a sort of Banker for the Forces, and paid them. He was the head of the Hai-kwan Bank at the time. Ta

包租四個月後聽憑泰記租下仍按三千兩一月付租及至四個月期經彼此議定船價銀八千五百兩并另立買契一紙至于租契內載明年六月分泰記說這船租用長久現欲買用惟懇將船價讓小可耳當因事故所革我並未向中國官面前討過此欵前于一千八百六十三廠修過係聽人說知的泰記被上憲革去官職之說不知底細祇聞或高橋輪船被賊搶去之後我並不曉得馬格里曾將此船帶來上海鉄想戈登帶兵時沒有用過此船故未向伊等討過亦未向馬格里討過意至白齊文被撤之後經霍楞接帶時曾否用過此船我記不清楚我知何官所取據說初次仗賊得勝之處係在高橋地方故取名高橋之說過倘公正人不斷還他亦照數付出我船係中國官取名高橋但不賬送請公斷但此欵明雖向吳道臺索欠而實在賴泰記付還蓋泰記

Kee acted from patriotic motives, I believe, all through, and I also believe him to have been a good and conscientious man. I further believe he did all this on his own private account, that is, when he started the Force, and not as agent for China. He made a great deal of money out of the Force and I think he was the father of the whole thing, without any communication from his Government. I cannot speak more positively and can only express my opinion. The award of Jenkins and Rodgers, the first Arbitrators, was in my favor, granting me all I asked on the four months charter party. I know there was another arbitration, before Messrs. Cunningham and Hanbury, but cannot say at what time afterwords. I had no power to enforce the arbitration of Messrs. Jenkins and Rodgers. I left that in the hands of the authorities. I do not know the result of the reference to Messrs. Cunningham and Hanbury, and never asked what the result was. I left all the papers having reference to my claim in this case, in the charge of Mr. Lewis, who was clerk in the Shipping-office at the time. They were placed in a pigeon-hole by him. Those papers stated what was due to me. I have not seen them since. I believe they were lost, bill of sale, charter-party, and all. I have not seen them since my return to Shanghai in the beginning of 1868 When I first went to Ta Kee's widow about the matter, she did not ask to see the charter-party, but only said her period of mourning was not over, and that I ought not to ask her to do any business.

THE TAOTAI—How long after the charter was made was the loss of these papers discovered?

Plaintiff—Not till about five years afterwards.

THE TAOTAI—And have no steps been taken to recover them?

Plaintiff—I took all the steps I could think of.

妻索欠他並不說要看租船契據祇言須除喪後方可理事至此項租起嗣一千八百六十八年我回上海之後則未見過我初次向泰記之字之魯意鉄箱內收存聞魯意將此二契收在鉄箱內與租契併放一斷我並不知亦未問過所有泰記結欠之據并買船契我均交美署寫收取緣事在官府之處後來金能亨漢壁禮二人亦經斷過其如何判二人公斷之四個月租價銀一萬二千兩係斷准應還的其時我無權銀號其常勝軍用欵皆係泰記支應所以祇能向泰記索欠初次秦洛的我想那時係泰記自己一心欲剿退髮賊爲念我又知泰記經理官一切支應以及用人等事亦係泰記自行主政並未聽說是吳道臺管起首召募成營又爲首領經管各事之人故我只認泰記即該營採辦滿仍前租用計共十四個月當時彼此均未欲立新契常勝軍係泰記

I did not file the petition until ten years after the occurrences, for the reasons I have given before. It did not occur to me that it would be dangerous to wait so long without filing a petition. The subject has never been allowed to drop, and I have never lost sight of the claim, but always had some one looking after it every two or three months.

Re-examined by Mr. EAMES—I understood by Ward's signature that he was merely a witness to the matter between Ta Kee and myself, not making him in any way responsible to me. After Woo, Taotai, came into office, they continued to use the steamer, but took no exception to the charter-party.

Mr. EAMES would make a suggestion. As the case was likely to last all through the winter at the present rate, he suggested that he should simply put in Mr. Jenkins's, (the next witness) statement, as sworn to, and Mr. Drummond could proceed with his cross-examination at once.

F. H. B. Jenkins, sworn. The following affidavit was read:—"I, Frederick H. B. Jenkins, an American citizen, residing at Shanghai in the Empire of China, make oath and say as follows.

1*st*. That in the year Eighteen hundred and Sixty three (1863), and some time after the death of Gen F. T. Ward, there were certain claims against the Chinese Government contracted by said Ward and his successors, which said claims were disputed by Woo, Taotai, and payment refused.

2*nd*. That in consequence of this refusal on the part of said Woo to pay said claims, an agreement was entered into between George F. Seward, Esquire, U. S. Consul General and said Woo, Taotai, by which said claims were referred to arbitration, and in accordance with this agreement I, the said F. H. B. Jenkins, was appointed by Woo as Arbitrator to act on his behalf, and one John Kearney Rodgers, an American citizen, then residing at Shanghai was appointed by the said U. S. Consul General as Arbitrator to act for him on the claims of citizens of the United States.

3*rd*. That among the claims referred to us for such arbitration was one of Charles E. Hill an American citizen residing at Shanghai, for the charter and use of a steamer called the *Keor Jeor*.

4*th*. That the claim of said Hill was based on a charter-party written in both the English and Chinese languages, and signed on the English side by said Ward, and on the Chinese side by one Ta Kee, a Chinese Banker and Government Treasurer, and sealed with his chop or stamp, and was also signed by said Hill.

作憑係寫英漢兩文英字係華爾畫押漢字係泰記簽名蓋用圖章泰其各項賬中有熙爾一欵係討高橋輪船租價銀兩熙爾送來租船契領事官與吳道臺商定洮兩個外國人公斷吳道臺洮我西大人洛商所買物件欠付之欵嗣因此賬吳道臺不能明白不肯即付經西總八百六十三年華爾死後我曉得有許多賬目是中國官勦賊時向洋原告狀師將秦鎮西前具親供宣讀于秦鎮西聽曰據秦鎮西供稱一千仍舊租用並未要換甚麽契據之說所供是實名在上係中人名目不干華爾之事吳道臺經管常勝軍時高橋輪船我向其妻討我回外國又托朋友常常代討其泰記所立之契華爾簽行禀控之原委前已面爲聲說過了泰記在時我向泰記討泰記故後契歷五年之後始知遺失我曾各處搜尋租契實無着處延至今日甫

5th. That during said arbitration said charter-party was in the possession of said Arbitrators, and upon said charter-party, and evidence that said Steamer *Keor Jeor* was in the active employment of the Chinese Forces during the whole time for which payment was claimed, said Arbitrators decided and adjudged that the said Hill should receive the whole amount claimed by him.

6th. That during said arbitration I had frequent opportunities of examining said charter-party, and at the time was familiar with the terms thereof, and of these terms to the best of my recollection and belief two points were, that the charterers were to pay for the use of said Steamer Taels 3,000 per month, and an indemnity clause binding them to pay in case of loss a further sum of Taels 12,000.

7th. That at the conclusion of our labors as said Arbitrators said charter-party was taken possession of by said Rodgers to be by him returned with other papers to the United States Consulate General.

8th. I am satisfied and fully believe that at a subsequent date I have seen said charter-party among the papers at the said Consulate General referring to what are known as the Ward Claims."

In reply to the CONSUL GENERAL, witness now said the contents of the affidavit were true.

Cross-examined by Mr. COWIE;—At the time named in the affidavit, I was trying to make a living. I forget in what way. I did all sorts of different things. I owned steamboats for one thing. At the time of

秦鎮西又供我具親供時在上海作生意的也做火輪船交易派我公

被告狀師問

立誓所供等語旋據秦鎮西復稱前項之供所供是寔

箱內還見過的此供係一千八百七十二年在會辦領事伯來福面前後由洛其親手交與上海美國公館內我記得後來有一次在美署鉄二此船如被失等事賠償船價銀一萬二千兩此項租契前自會斷之目所以我還記得契內寫的兩層事一每租用一個月租價銀三千兩付還熙爾所討之數前在會斷時因高橋輪船租契在我等處常常寓相對彼時高橋輪船寔係中國官勦賊時所用相符故我等公斷應該之時這張租契是憑我等手中經斷細閱此契核與熙爾所討的月租記係管銀號兼管軍餉人員租契內有熙爾出租名字在上我等會斷

the arbitration, I was engaged in general business. I had transactions with Woo, Taotai. I do not recollect that I have any claims against the Chinese Government. I might have. Mr. Hill's claim was brought before us to decide upon, as near as I can recollect with some other claims of foreigners, against both Woo and Ta Kee. I was appointed by Woo. We went through all the bills presented to us, and examined them. Not one of the claims submitted to the Arbitrators was paid. I saw the charter-party alluded to, and to the best of my belief it was signed by Ta Kee. I have stated so in my affidavit. It is a long time to remember things exactly as they occurred. I do not understand Chinese very well. I think I might understand what the characters were that Ta Kee put to the charter-party. I think it was also sealed. I cannot state anything more than appears in my affidavit. I do not remember whether the Taotai's seal was on the charter. I know the steamer was employed with the Sung Kong Force. The officers of the Force used her. My deposition and affidavit were written by Mr. Hill, and are as near correct as I can recollect. I dictated a portion of them to him, but before I swore to them I read them through several times, and am sure they are correct. I have no further interest in this claim than any of the others. I do not know whether the award was enforced—our work was done in making it.

A few unimportant questions closed this witness's cross-examination, and the Court adjourned.

SHANGHAI. *January* 12th, 1875.

得知緣我等既奉委派公斷不過以盡厥職而已等語雖由我等斷准而寔于我等毫無沾潤受私之處其銀曾否付還亦不
爾逐一寫出書畢後我又屢次閱過無訛故立誓簽名供的熙爾之欵
印信現已忘記我曉得高橋輪船是常勝軍用的我前呈口供係囑熙
上印有泰記圖章除我所供之外別事皆記不得了契上有無吳道臺
得至中國字義我不能全行認識惟泰記的畫押可以認得我想租契
記得係楊泰記簽名在上已于前供內具明惟事隔多年不能一一記
察斷所有斷在應還各欵而仍未付出我親眼看過高橋輪船租契且
與吳道臺索欠之項我奉吳道臺派的所斷許多之欵我同洛其詳細
之賬派我等公斷賬內記得有熙爾一欵並有別人賬目均向楊泰記
斷的那時就做買賣彼時我與吳道臺往來記不得中國家有無欠我

The Court proceeded to hear further evidence, and the first witness called was.

C. J. Ashley, who deposed:—I am an American citizen. I was at one time employed with the Soong Kong, or Ward's Force, in suppressing the Taiping rebellion. I mean the "Ever-Victorious Army." I joined it in the early part of 1861, and remained in it until 1863. My position was Quartermaster-General and Paymaster. There was no difference in the officers of the Force until after Ward's death in 1862. There was no change whatever in the Chinese management of the Force while I was with it. My chief dealings for funds, &c., were with Ta Kee. I had no dealings with any other Chinese officials. I received the funds for payment of the foreign officers, steamboats, and the troops generally, from Ta Kee. I remember the steamer *Keor Jeor* being employed with that Force. In the early part of summer, I think in May, I was ordered by General Ward to take an engineer, and make a trial trip with her. I did so, and reported favorably to the General. There were some little alterations made in her, and she was turned over to the Force. She was used while I was with the Force,—until I went to Hongkong, in September 1862, in connection with the Force. After that I saw her no more, but heard by common report that she was still used. My offices, &c., were then turned over to Benson. I went to Hongkong for arms and ammunition for the Soong Kong Force. I furnished coals and stores afterwards for

港將粮臺事務交由朋生接管我去香港係代常勝軍採辦軍裝而去十二年秋間我赴香港採辦軍械去後來又聽人說仍在營用我赴香靈捷合用租定後略加修改發交常勝軍營備用直用到一千八百六分時華爾囑我帶一管輪洋人先行駕船試驗試後即回復華爾此船手支應我記得高橋輪船是常勝軍用的該船未租之先於外國五月過別人所有採辦各件暨兵餉並各輪船一切開銷概係泰記一人經管帶員弁人等均未更換一人以及該營事務均係泰記經管亦未換十一年進營起至六十三年華爾陣亡時止自進營起至出營止該營愛喜來供我是美國人前在常勝軍營管理粮臺事務自一千八百六

原告狀師問

問治十三年十二月初五日接審

the steamer. She had no name that I knew of at that time. The engineer I took was the second engineer of the Zingari. I do not remember his name; he was drowned during the trial trip. He was a British subject, and his name will be found probably at the British Consulate. All I know of Woo Taotai's connection with the Force was that I was at times employed by Ward to go to him with dispatches. I never saw the charter-party. The steamer was used as a dispatch-boat, but she had a gun put on her, to fight when up the creeks. There were several other steamboats here, but they were larger, and employed in the silk trade. Fletcher and Co. had two or three. I cannot say positively that they were here at the time the *Keor Jeor* was chartered. They were here after the rebellion. The *Keor Jeor's* charges for running were more economical than any other boat. She was very small. I only know by hearsay about her capture. It was common report that she was captured up the river.

By Mr. DRUMMOND—I had my chief dealings with Ta Kee, and with no one else. I never saw Ta Kee sign any papers himself, but I saw his compradore, Li, do so for him. He is in Court. (Witness identified him).

記家有事皆係伊用之李姓扛白渡代其東人經手我與泰記並不見愛喜來又供我在常勝軍時並未與別官往來只認識楊泰記我去泰

被告狀師問

聽說後來被賊搶去但我未曾親見等語

大不過絲業中雇用裝絲而已惟高橋輪船小而靈便一切開銷亦省砲一尊又可以在內河行走打仗之用那時雖有別項輪船而船身較吳道臺處的高橋輪船租契我沒有見過此船係專遞文報的上面安吳道臺與常勝軍有無交涉我不知道祇有華爾曾派我送過文書去人就在試驗高橋輪船這一回落水淹死的却不記得他的名字若云帶去試船之管輪人係在靖噶爾輪船上第二名管輪者係大英人此嗣後我又經手發過高橋輪船烟煤等物初租這船時尚無船名我所

He was the man who invariably handed to me all cheques for payment of steamers, &c., I simply went there with my bills for expenses, and Li read them over and paid me. Ta Kee was at times there, and at other times he used to take them to Ta Kee's private room, and then bring me the money. I have often seen native chops on Ta Kee's writing table. I cannot read or write Chinese. I never saw Woo Taotai sign or seal any documents in connection with the Force. I always saw to the correctness of all payments in connection with the Force. It was my duty to do so. I think there were eleven steamers in connection with the Force. They were the *Confucius*, *Pluto*, *Zingari*, *Willamette*, *Hyson*, *Bopeep*, *Cricket*, *Keor Jeor*, *Rose*,—I can hardly remember them all, it is so long ago. I think there were eleven, but do not remember the other two. The *Confucius* and *Pluto* were guild boats—I believe the Shantung guild. I do not know how the other boats were engaged. It was commonly understood that the *Rose* was Ta Kee's own property. The Zingari was a Chinese owned steamer. The *Hyson* was purchased from Russell & Co. by General Ward. The *Martin White*, a tow boat, was also used in the Force. She was owned half by Ward and half by Ta Kee. I know about the *Keor Jeor* simply because Ward ordered me to take her on the trial trip. It was reported hat she belonged to Mr. Hill. I had no authority from Mr. Hill to receive the vessel. We took her from Hunt and Company's wharf. Mr. Hill was a partner there at that time. She was taken from their machine shop. As Paymaster of the Force, I paid the expenses of those steamers. The money for the boats at Soong Kong was paid by the Paymaster there. I sent

去其各輪船月需各費統歸我手經發如船在松江我即就近交付倘駕來的緣當時熙爾不在棧內熙爾已先與管棧人說過將船交我帶孤我試驗高橋船時係向順泰碼頭棧房內熙爾名下之管棧人交我的滿里爲聞說係泰記與華爾合買的高橋輪船聽說是熙爾的華爾格而亦挂中國旗號想亦係中國官的海生船是華爾向旗昌洋行買中國官置的其餘不知是租是買的聞得糯斯一船是泰記自己的星璧八星格而九高橋十糯斯惟孔夫子布魯多兩隻係中國旗號想係十隻船名一孔夫子二布魯多三格而四爲勒末五滿里六海生七波過字據該營所用各輪船一切開銷係我經管計共十一隻今只記得有圖章一二個我不識漢字作何用處常勝軍事務沒有見吳道臺簽面即領銀錢亦向李姓手內發出彼時泰記尚在我曾看見泰記桌上

the money to him. The boats at Shanghai were paid by me. I only paid the portage bills. I do not know who paid the hire of the steamers. The steamers that were chartered I know Ta Kee paid, because I chartered them for him myself. I did not charter all the steamers. There were some chartered by other people. I chartered four before I went to Hongkong.

The TAOTAI asked if the witness could remember the four he chartered?

Witness—The *Nanzing*, *Lotus*, *Shum-li*, and *Annette*. The charters were drawn up for me in Trautmann's office. I took them to Ta Kee, and he approved them.

Cross-examination resumed—Ta Kee did not sign them. I think the only sealing was the chop that Li used to put on them. I did not see him attach any seal to them; but I think that was the way it was done. I seldom saw the Taotai when I went to his Yamên, but sometimes I received a despatch back in answer to the one I took. I never got any orders from the Taotai. I believe all the orders for the Force came from General Ward. I do not believe he received any orders from Woo or any one else. I do not know whether Ta Kee gave orders to General Ward what was to be done. I never heard any dispute as to the hire of the steamer *Keor Jeor*. There was no dispute while I was in the Force; and the first I heard of one was after the first arbitration in 1863 for settling the claims of the Soong Kong Force. I do not know

辯論高橋輪船租價之說嗣于一千八百六十三年即同治二年始行傳令至泰記在華爾面前有無言語則我不知也我在營時未曾聽有總未見過吳道臺的面常勝軍一切權柄歸華爾掌管從未有吳道臺到吳道臺衙門亦有時送泰記處皆係傳遞進去回文亦係傳遞出來傳出而泰記名字圖書均已印在契上我在營時華爾常派我送文書泰記核准簽名契上但我並未親見泰記簽名緣此契由李姓扛白渡利以上四船都是泰記囑我向惇裕洋行租來租定後寫好租契送與國之先經手租的計有四號一名南濤一名糯得斯一名愛納一名生記叫我經手代租者所有租價銀兩我曉得是泰記付出的在我未回至船租價銀不知何人付出有無欠欵我不得知內有幾隻輪船係泰船在上海我就送到上海但我經手所發之欵不過各輪船買煤等項

who were the first Arbitrators. I never was present at any of the meetings. I know nothing of the second arbitration. I know there was a first and second arbitration, nothing more. I had a claim, which was against the Soong Kong Force. It went in with the first arbitration. It is not settled yet. I heard of no disputes in connection with the steamers. So far as I know, there has been no trouble with any of the other boats. The money for the *Hyson* came from Ta Kee's hong. That was the only vessel I saw cash paid for. The *Keor-jeor* was only used for the Soong Kong Force, while I was in it, as a gunboat and dispatch-boat. She was not used privately by Ta Kee that I know of. I did not see the *Keor Jeor* at Shanghai, after she was blown up. I believe she was blown up and sunk during an engagement between the Imperialists and rebels, in the summer of 1864, but I am not sure as to the date. She was then in the hands of the rebels. I never heard any reason given why the payment on account of the *Keor Jeor* was disputed, nor that Mr. Hill ever attempted to seize the steamer. I do not know that Ta Kee was the agent for the suppression of the rebellion. We looked upon him as one of the head men, and went to him for money. I supposed that Woo was of higher rank than Ta Kee. I did not know that Ta Kee was an official. I knew nothing as to his official capacity whatever. I simply went to him for money and stores.

Captain Joseph Rouse, deposed—I was employed on the *Confucius*, and was engaged with the Soong Kong Force from early spring 1863 to 1864. I remember the *Keor Jeor* being employed for the Force. It was said by general report that she belonged to Mr. Hill. I think she ceased to belong to the Force through being captured by the rebels in 1863. I think we were sent to try to recapture her.

一切差使皆聽局主吩咐嗣于一千八百六十三年春間起至六十四勞令供我係美國人曾在孔夫子輪船爲船主此船係歸會防局所管

原告狀師問

記支放我想吳道臺官階大于泰記所供是實

官府所派亦不知道祇曉得泰記是爲常勝軍首領如需餉銀即向泰的那一日記不清楚我不知因何緣故未付高橋船租泰記剿賊是否未曾看見泰記乘坐此船遊覽高橋船轟壞是髮賊搶去被華兵轟壞銀我在常勝軍時高橋輪船常川在營專遞文報並在內河打仗之用海生之船價銀是泰記行內付出的其餘輪船或租或買未見付過價亦有賬送去請斷至今並未還我銀兩別的輪船並無爭論之事所買說至于第二次派人公斷我不明白祇曉得初次公斷是有的其時我

The TAOTAI asked if the witness knew where she was captured?

Witness replied—At the East or water gate of Sung Kong,

The TAOTAI—And that you know by others telling you?

Witness—Yes.

Examination resumed—From the capacity and work required of the *Keor Jeor*, I think she was a very economical boat.

The TAOTAI asked who was captain of the *Keor Jeor* when she was captured?

Witness—She was then in the hands of Dr. Macartney. She had had two or three captains at different times.

The TAOTAI—Was Macartney captured in her?

Witness—No; I believe he was up in the city at the time.

Cross-examined by Mr. COWIE—I was master of the *Confucius*. She was employed to protect the junks in the silk trade along the coast. She belonged to a guild—a Chinese Chamber of Commerce. When we were employed with the Sung Kong Force there was always a Mandarin on board from whom we received our orders, and I always knew when we were employed for the Force, because we received orders and coals, &c., through the Mandarin. I never knew Ta Kee in connection with the Force. I knew the *Keor Jeor* was at that time employed as a dispatch-boat, running to Sung Kong. I do not know of her being employed except in connection with the government Forces. I never knew any-

軍營時知高橋船係專往來上海送信此船除在常勝軍營差用外不
咐其燒煤工食一切皆係管帶官經辦那時我不認識泰記我在常勝
用後撥與常勝軍營當差緣此船有管帶官員凡有差遣聽管帶官吩
勞令又供我在孔夫子輪船上作船主此船係歸會防局護商捕盜所
被告狀師問
告訴我的並未眼見等語
馬格里管駕此船被搶時人已進城故未被擄以上情形就是馬格里
子船追赶已來不及了係在松江東門水關面前被賊搶去的那時係
于一千八百六十三年下半年被賊擄去當時常勝軍還叫我駕孔夫
軍營租用之高橋輪船聞是熙爾的如何租用不知底細後聞高橋船
年歸常勝軍營中差用則聽泰記差遣我在常勝軍營時曾看見常勝

thing of this claim until within the last four months. I received my wages from the Mandarin on board. The money came, I believe, from the Shanghai junk guild. I do not think it came from Ta Kee. I was formerly, 1863, in the Harbour-master's office, but left voluntarily.

Re-examined by Mr. EAMES.—Our ship, the *Confucius*, was sometimes sent up to Tientsin; but I never knew the *Keor Jeor* employed with any other than the Sung Kong Force. I think I can swear to that as a fact.

Colonel EDWARD FORESTER deposed—I am an American citizen, and was engaged in Ward's Force from early 1861 to early in 1863. I was second in command, next to General Ward. I always had general control when Ward was absent. He was seldom in Sung Kong, which was my head-quarters. The Force originated with Ta Kee, as the moneyed man, and Ward did the work. I looked to Ta Kee for my authority. He was known as the originator, the getter-up of the Force, and we looked to no one but him. Eventually Woo had something to do with it. The first time he appeared upon the scene was when Burgevine and Ta Kee had trouble. I never knew Woo in connection with the Force before that time. It was in February, 1863. Ta Kee had nothing to do with the immediate command in the field, but he used to give directions where we should go. I am speaking of this Province, and only before the time of the dispute with Burgevine. After this time,

隊出仗之處須由泰記傳令我等須遵令照行則泰記一無話說當此
怠慢泰記之時白齊文未怠慢泰記之先並未聽有吳道臺之命如派
道臺名分吳道臺初次經管係在一千八百六十三年二月間白齊文
得泰記係常勝軍為首之人不拘何事必在泰記前請示後來方有吳
召募成營華爾相帮打仗我在營所辦各事都是泰記吩咐的人都曉
江華爾名下帮帶常勝軍如華爾公出我即作主該營係楊泰記出銀
法爾斯德供我是美國人于一千八百六十一年至六十三年均在松

原告狀師問

勞令又供我不獨曉得高橋船是歸常勝軍用的我並可罰誓是寔

原告狀師問

知另有何用我的工銀係管帶官發出想係會防局領來我不能詳悉

things changed, and Li Futai took command of the entire Force. Before this, the Chinese officials, by my request, interfered with the Force, but not without my request. I remember the *Keor Jeor*. Mr. Hill asked me to use my influence with Ta Kee and Ward to get her chartered. She was not then completed, but was in the water. That was about April 1862. General Ward thought she would be a first rate boat for the service, and went with me to Ta Kee, and she was chartered. I never knew whether there was a written charter or not. She was employed, and remained in the service until March, 1863, but I cannot say how long after. She was not to my knowledge in any other service than with the Sung Kong Force. She was under the control of Ta Kee, General Ward, and myself. There were two or three reasons why she should be employed. At that time we were entirely cut off by the rebels from Sung Kong by land. The other boats were side-wheel boats and expensive, and I recommended the *Keor Jeor* because she was low and narrow and we could get her at any time under the bridges and into the city of Sung Kong, where no other boats could go. Her consumption of coal was I do not think so much as the least steamer we had before. I know nothing of her loss. I can be positive that the amount of her charter was to be Tls.3,000, or $3,000, per month. The term taels was more frequently used in those days, and that gives me the impression that it

江水關無不便捷故我吹荐租用其租價言定三千一月但不知是洋惟高橋船小巧且係暗輪燒煤亦省能在內河行駛穿橋並能直進松皆賊只有水路一條可通那時雖有別項輪船而船身又大又係明輪此船他人則不能用當時急須租用高橋船者緣松滬往來旱路四面後用下幾時我不知悉我在營時只有泰記華爾與我三人可以差用船是常勝軍租用的直用到一千八百六十三年四月間我離營時此去泰記處說知旋即租定其如何寫立租契我不知道祇曉得高橋輪去泰記前說項可租用他的船華爾說此船正合常勝軍營用並同我聯絡伊等不肯與吾同氣至高橋輪船未租之先熙爾先來兜攬叫我歸李撫臺統帶當李撫臺未統率各營之前華兵之營如我營不邀其事之時在江蘇省亦在白齊文怠慢泰記之先自白齊文怠慢之後即

was taels. I saw the *Keor Jeor* the last time between the 6th and 10th of March, 1863, when I left for home.

Cross-examined by Mr. DRUMMOND—I know nothing of the chartering of the other steamers, except by reputation. I heard General Ward speak of their expenses, but I know nothing about them. I never saw the charter-parties of any of the other steamers. I do not know if there was one for the *Keor Jeor*. I have every reason to believe there was. Ward had nothing more to do with the Chinese Government than I had. It was Ta Kee,—not Ta Kee and Ward. I do not know who employed Ta Kee except the Government. I think he got something for every place recaptured from the rebels. When the original owners went back upon their land, they paid 33⅓ per cent, which Ta Kee received, and out of it paid the Force. I have every reason to believe it to be so, as it was so translated to me by Ta Kee, some Mandarins, and smaller officers. I cannot say who employed Ta Kee. Li Hung-chang was Futai at the time, and Woo was Taotai. I cannot say if Ta Ke

起常勝軍是否奉李撫臺或吳道臺所命我不得知泰記曾對我說過查其產業將三股中之一股交與泰記充爲常勝軍兵餉之用至泰記有能通西語之小官曾經有言于我克復一城有民家搬回者擬沉人也華爾不在其內我不知係何人沉泰記管常勝軍之事從前泰記並契的華爾與我一般皆無與華官交涉之事縱有事故祇在泰記一人過至高橋輪船有無租契亦未曾看見據我想來高橋船一定是有租法爾斯德又供租刖個輪船只聽泰記仝華爾說的各船租契皆未見

被告狀師問

之時看見的後來如何被賊擄去不能知道等語

高橋輪船是在一千八百六十三年四月初六至初十之間在我回國數銀數我想彼時英洋尚未廣行必是銀數二千兩一月我末後看見

got his authority from the Provincial Government or from Peking. I knew afterwards that Li Hung-Chang was the man, but whether he acted by authority from Peking I do not know. Ta Kee told me he had the authority of the Government to raise the Force. The Soong Kong Foo, a very high officer, never took any interest in the Force, and we never had a bag of rice from him. After the dispute with Burgevine, Li Futai came forward and took the command of the entire Force. After this time I had communication with Li, Futai and Woo, Taotai. They offered me the entire command of the Force, after Burgevine's dismissal. There was mutiny under Holland's command, and Li, Futai, offered me $1000 to go and quell it. I went, and the mutiny was quelled. When I last saw the *Keor Jeor*, she was under Holland's command, that is, in connection with what was still known as Ward's Force. I never heard that Hill tried to seize the steamer, and know nothing more of her, as I went home in 1863.

Re-examined by Mr. EAMES—The mutiny at Soong Kong arose in consequence of Li Adong being put in command with Holland.

原告狀師愛密遞呈外國洛其魯意等寄到親供請祈查閱等語而被告之故等語

法爾斯德又供那時常勝軍兵勇不服係因李鼎堂進營與霍楞會帶

原告狀師問

船那時在霍楞名下經管我回外國之後就不知道後來事了等語

一千兩叫我前去該營彈壓經我前去衆勇方服我末後看見高橋輪接帶其軍我未允許霍楞接白齊文手時兵勇不服旋奉李撫臺許銀領在後我與李撫臺呉道臺有往來之事當撤去白齊文時諄諄勸我兵米並未見其發給一石自白齊文與泰記口角之後就歸李撫臺統抑或由北京傳命而來則未知也那時在松江札營城內雖有華官而他有權柄的治後方知係李撫臺所委但不知是否李撫臺一人之令

Mr. EAMES here submitted several affidavits of other witnesses, who were absent.

Mr. DRUMMOND objected to the admission of those documents; and thought it was only proper that all the witnesses should be heard in Court.

The TAOTAI, on the request being interpreted to him, declined to receive the affidavits. The witnesses must be present in Court.

There being no other witnesses present to-day,

The CONSUL-GENERAL, at the request of Mr. Cowie, made the following statement:—When General Ward died, Burgevine succeeded to the command, at the recommendation of Admiral Hope. He was not at all successful in making things go smoothly at Soong Kong. At the latter part of 1862 or beginning of 1863, I heard that Ta Kee had refused to give any more money. I heard also that Burgevine came to Ta Kee's house, and that there was an altercation. Burgevine then returned to Soong Kong, and received orders to turn over the command to some one else. He refused to do so, and said he should hold the steamers there at the time. Among them was the *Confucius*. I advised him to re-consider his decision, and he appeared soon afterwards at Shanghai, on board the *Confucius*. He represented to me that there were large amounts due on account of the Forces. Woo then asked that I would remove Burgevine from the steamer, and return her to the guild. I asked Woo what agreement could be made to pay the claims, and it was arranged that a commission should be appointed, to which they should be referred, he

所欠之欵當如何籌法償還之處故即商定各邀公正人員評論吳道領事商及欲令白齊文先將船隻交還會防局收管而本總領事詢之因欠付常勝軍餉銀甚多故扣留輪船等語並准吳道臺前來與本總即經本總領事勸其三思而行旋據白齊文乘坐孔夫子船來滬面稱別人接帶當時白齊文不允欲將在松之輪船扣留內有孔夫子一船並聞白齊文來泰記家口角之後仍回松江而白齊文即被撤去另委一千八百六十三年初本總領事聞得楊泰記不肯給發白齊文銀兩而白齊文遇非其時正當賊勢猖獗之時于一千八百六十二年底或西總領事堂諭查華爾陣亡之後係英國水師提督選派白齊文接帶其軍該人証既未到案自當不准取入為証也

狀師陳曰此項人証現未投案親質應請不能作準當經　沈道臺諭

to appoint one commissioner and I the other. When that paper was drawn up and signed, I requested Burgevine to leave the steamer. The Taotai named on his own part, Mr. Jenkins, and I named Mr. Rodgers, managing partner of Wetmore, Cryder & Co. An advertisement was inserted in the papers asking all parties to send in their claims to the commission. After about two months, the commission reported to me. I reported to the Taotai the result, and asked him to make payment of the sums awarded. The Taotai said that many of the claims were not good ones, that he would pay some of them, but declined to pay in full. He entered into details, and I found that some of his objections were well founded. I found that the cause lay not with the commissioners, but in consequence of a failure on the part of the Taotai and Ta Kee to enter full statements. I then thought it right to enter into an examination of these claims myself. This examination occupied several months. We arrived at a result, which shewed that some of the claims which the Taotai had objected to were good, and he then agreed to admit them. I asked him to pay the sums he admitted, but he still refused, because Benson, who acted as Paymaster under Burgevine, had not sent in full statements. I then proposed that a second arbitration should be called, to examine the claims more fully and his charges against Benson. He agreed to this, and documents were fully drawn

及朋生經手之欵一併核斷又立合同寫英漢兩文合璧彼此簽名其朋生經手報銷尙有未清之處遂復議定另邀公正人評論前項各賬行允淮雖卽請其照付而仍未付出據稱因白齊文名下管理粮臺之往來會商數月之久始有幾欵將根底查出卽吳道臺不允之項而復記與吳道臺二人底細不清之故也治本總領事自行查核與吳道臺揆度之下其或有因嗣經本總領事查知其故不在公正人係在楊泰不允付亦有之復經吳道臺前來將不公允緣由面爲述知本總領事旋接吳道臺回文以爲其中有所斷幾欵未能公允其間允付者有之兩月之後據公正人核定聲復前來卽經照會吳道臺請其照斷付銀佈列新聞紙中如有被常勝軍欠項者應將賬目開送秦鎭西等核斷臺泓秦鎭西本總領事泓洛其立就合同卽令白齊文將船交出一面

up in Chinese and English. The second Arbitrators were Messrs. Cunningham and Hanbury. I had myself rejected some of the claims which appeared bad. None of the claimants appeared before the Arbitrators. Most of them were my own countrymen, and they appeared content to leave their matters to me. The Arbitrators brought in their decision in February, 1864, but whether this claim of Mr. Hill's was urged before Messrs. Hanbury and Cunningham, I do not remember. I remember that Mr. Hill had made some sort of sale of this steamer to Ta Kee, and that he was dealing with Ta Kee himself; and I remember very distinctly thinking that if any of these claimants can manage their own business, so much the better. My impression therefore is that Mr. Hill's claim was not submitted, but that those of some foreign officers on board the *Keor Jeor* were. The Arbitrators admitted very many claims which the Taotai had rejected. They decided that Benson had done nothing wrong. I called upon the Taotai to make payment upon the award. In response he sent me a cheque to cover the claims he had never disputed. The others, which he had disputed, but which were

臺查照公斷應還數欵一併付銀而無如吳道臺送到銀票仍摘其前於朋生經手之賬據其公斷並無不清等事即經本總領事函請吳道而已經斷還也查第二次公斷應還許多賬目即吳道臺不允之欵至者不最妙乎我想高橋輪船一欵總未議到蓋該船上另有別人欵項為理論彼時本總領事尚懷有意見以為吾美國人尚有能自行調處熙爾將高橋輪船賣與泰記實有之事並記明係熙爾自行與泰記面其熙爾之高橋輪船一欵當時金漢二人曾否議到今已忘記惟記得公正人會斷當于一千八百六十四年二月分據金漢二人回復前來人處投告其中多係美國人之欵均送交本總領事處自行核辦再交內亦有本總領事所未准者所有被欠之戶其時並無一人至金漢二另派之公正人係金能亨漢壁禮二人也惟前本總領事自行查核賬

admitted by the Arbitrators, he refused to pay. The sums entrusted to my hands were duly distributed; the others remain unpaid to this day.

MR. EAMES, said there were several other witnesses to be examined, and he might include among them Dr. Yates, who probably would not refuse to make a statement.

Dr. YATES said he would not object to state matters so far as he knew them.

The CONSUL-GENERAL remarked on the inadvisability of Dr. Yates, looking to the position he held in the Court, being called upon to make any statement at all.

January 17th, 1875.

A further hearing in this case was held to-day. Mr. I. B. EAMES appeared for the plaintiff, and Mr. DRUMMOND and Mr. COWIE for the defendants.

WILLIAM E. SHERMAN was first called, and deposed—I am an engineer and machinist, and am an American citizen. I arrived in Shanghai about the middle of April, 1863. I got employment the day afterwards, at Thomas Hunt & Co.'s machine shop. I remained there until sometime in September or October following. I was engaged in setting up sundry small steamers. One was a steamboat for Fletcher & Co., the *Yuen-fa h* I think the *Haining* had been finished shortly before that. Two other small steamers were set up in the same yard at a later date. I remember the *Keor Jeor*, and saw her soon after I arrived here. There were none

時沒有別船與高橋船相大者是年中國四月間高橋輪船來滬停泊廠時就裝修海甯雲帆兩輪船我記得到滬時即知道有高橋輪船其月半到上海第二日就在順泰碼頭鉄廠裡作生意九月間歇出我進寶門供我是美國人在火輪船上作工匠一千八百六十三年春間四

原告狀師問

太現既經理此案爲陪審人員未便納入案內爲人証也

案情形旋經晏瑪太云若蒙垂詢可以質証而　西總領事諭曰晏瑪

原告狀師陳曰現在尚有別項人証擬請取具口供內有晏瑪太深悉此

同治十三年十二月十一日接訊各供

欵仍未付還所有送來銀兩當經本總領事分給矣

番允付者數欵送來惟第二次公正人所斷應還而　吳道臺不允之

of the same class then running here. I went up to Tun-ka-doo with Captain Jones to arrest her. I think that was about June, 1863. I had no communication with Mr. Hill about it. I only heard from Captain Jones that there was some trouble about money matters, between Mr. Hill and the Chinese. He asked me to go and get the steamer, and bring her down before Hunt & Co.'s—what is now the Hongkong and Shanghai Bank. We did so, but I think she went away again sometime next day. I do not remember that Captain Jones told me under whose instructions he acted. I inferred that he received instructions from Mr. Hill. The other small steamers were about the same size as the *Keor Jeor*—a little larger, with a greater draught of water. I do not think those other steamers could have gone up to Soong Kong.

By the Taotai—I was on board the *Keor Jeor* at the time I speak of.

The witness was not cross-examined.

Mr. Edward Cunningham deposed—I remember having been one of the Arbitrators on this matter of the claim of Mr. Hill. I should state that after ten years interval since the arbitration my memory was indis-

之事我曾經與漢璧禮議過惟事隔十年記不清楚其時公斷不應還金能亨供我係美國人前在旗昌洋行作擔手的熙爾出租高橋輪船

原告狀師問

賽門又供扣回高橋輪船時是我去該船上駕回的等話

沈道臺問

亦深我想這兩號輪船不能行駛松江內河等語時尚有別項輪船兩號亦在鉄廠經我修配齊全較高橋船畧大吃水價並未付過至于底細却未知悉次日即行開去聞說兩已言明也那雲帆船主係授何人所使祇據崇說此船因中國官向熙爾租賃其租洋行門前即今滙豐銀行門前是也扣留此船並非熙爾面嘱亦未知小東門外黃浦江內我隨雲帆船主名崇將高橋輪船扣留拖回柝記

tinct, until I had refreshed it by reference to documents in the possession of the U. S. Consulate-General. The claim was presented to us, and it was disallowed because there was no evidence of a properly executed charter-party to the Chinese Government. If a charter-party had been produced, I do not think it would have been sufficient for us to have allowed the claim upon, against the Government. I should add that Ta Kee acted for the Chinese Government. Mr. Hill did not appear before us. We did not notify him to appear. I sold the *Hyson* to the Chinese Government. I should say she was larger than the *Keor Jeor* and more than twice as valuable. We sold her for Tls. 30,000. That was in 1862. The *Hyson* could have gone up to the water gate of Soong Kong, but not through it.

Witness resumed—The *Hyson* was a sidewheel steamer. I remember the *Keor Jeor*. Steamers of this description were very valuable at that time, and very large prices could be got for them. I should say that Tls. 3,000 per month was not exorbitant for such a steamer at that time.

By Mr. DRUMMOND—I acted as Arbitrator on behalf of American citizens, through Mr. Seward. Mr. Hanbury acted for Woo Taotai, on behalf of the Chinese Government. As usual in arbitrations we acted jointly and equally for both sides. There was no difference between us. The claims were placed before us by Mr. Seward. No claims were put before us by anyone else or through any other channel. The evidence

有賬目察核此賬均係紙據作憑即第一次公斷交到之據都是洋人
斷常勝軍中各賬此項賬目係西總領事發交與我此外並無別人交
金能亨又供我係西總領事所派漢璧禮係吳道臺所派令我二人會

被告狀師問

物價昂小輪船極爲得用等語

關至于高橋船每月租價三千兩其實不貴照彼時中國四面皆賊各
萬兩此船係明輪較高橋船略大能進松江內河而不能過橋駛入水
六十二年即同治元年分中國家向我行內買去海生輪船得價銀三
禮會議時況且熙爾未曾來過我等亦未請其前來我記得一千八百
據亦不能斷在國家付還且泰記係代國家所辦之事當時我與漢璧
者緣高橋輪船無國家租契憑據故斷此賬不應付還即使有泰記租

placed before us was chiefly documentary,—evidence taken before the other Arbitrators. That is as near as I recollect. The claims were solely between foreigners and the Chinese Government. No claims were made against any Chinese official personally. They were against Woo Taotai, as representing the Chinese Government,—at least I presume so, excepting certain personal claims against Woo on the part Ward's estate. I think we called for further evidence both for and against the claims, before making our award. We endeavoured to satisfy ourselves in every possible way that a claim was improper, before disallowing it. A copy of the first award was placed before us, together with the other papers. We noticed that the claim of Tls. 12,000 was awarded by the former Arbitrators. I do not think there was any reference in that award to the charter party, or to evidence supporting it. We went entirely upon the documents, and paid very little attention to the first arbitration. We did not think it was carefully done. We had a strong impression it was not satisfactory, and thought it easier to go through it again. I do not recollect asking for a charter-party. Whenever we were in doubt about a claim, we asked for other documents. I have no doubt we did ask for special information as to this claim, it being a very large one, and having been allowed once. I remember nothing about documents having been lost in connection with this claim. I do not recollect whether we considered it a claim upon the private estates of Woo Taotai or Ta Kee. We thought those claims we allowed were supported by sufficient documentary evidence. They were all claims in connection with the suppression of the rebellion; and all such claims were regarded solely as properly to be made against the Chinese Government. I supposed the claims in general had no reference to private individuals, with the exception of the one against Gen. Ward's estate. If we had had a charter-party presented with the seal of Woo Taotai affixed, I think we should have considered that sufficient to have fixed the Government. Ta Kee was undoubtedly acting as a sort of broker between the officers and the Chinese Government, but he had no official position that we knew of.

之說等語

金能亨又供我等公斷未曾細細問過熙爾高橋輪船之欵有無憑據

原告狀師又問

常代官府爲經管各事之首領其有無官階則未知也等語

國家應還之欵若有租契而有吳道臺之印信者方可斷還我知泰記

我等所斷應還之欵皆係有可憑者係彼時剿賊之項所以我等斷爲

但不記得曾否問過有無租契之說我想此欵銀數甚鉅總當問過惟

一萬二千兩一欵並無租契憑據交下故我等只能照眼前情形判斷

我等細核其中有無可憑之處然後斷定內有應還熙爾高橋輪船銀

一次秦鎮西與洛其二人所斷應還之判語一紙亦蒙發交下來曾由

討吳道臺代國家經辦之欵惟內有華爾一項係吳道臺自己之事第

Re examined by Mr. EAMES—We made no special enquiry as to this claim of Mr. Hill himself.

The TAOTAI asked if the witness remembered casting out several other claims, one of Tls. 895.78 for Hunt & Co?

Witness said he could not remember without referring to the award, and the document was handed to him. He then answered in the affirmative; and in reply to other questions from the Taotai, mentioned other and smaller accounts which had been rejected. Mr. Hill's claim of Tls. 12,000 was also thrown out, as against Woo Taotai for the Chinese Government.

J. I. MILLER deposed—I am a British subject, and was in Shanghai in 1862 and 1863. I was in the house of Jarvie Thorburn & Co.; I was in the silk-room. There was considerable difficulty in those days in getting silk down from the country. I cannot say at this period of time that I remember the names of steamers so employed. A small steamer that could have gone though the water-gate of Soon Kong would have been very useful. The usual price for conveying silk down was then Tls. 10 a bale, either by steamer or foreign house-boat. I do not think Tls. 3,000 per month was an exorbitant price to charter a steamer for at that period. She might have earned four or five times as much by chartering her to Chinamen.

A. C WESTALL, a British subject, was the next witness, and gave exactly corroborative evidence.

問原告狀師

論則當加價四倍矣等語

兩至高橋輪船每月租價銀三千兩之數實在不大若租此船運絲而甚難非需小輪船不可故那時雇用小輪船甚貴運絲一包水脚銀十二年在義新洋行買絲生理當日髮賊紛擾各路不通凡赴內地運絲密納供我係英國人一千八百六十二年至六十三年即同治元年至

原告狀師問

等語

兩七錢八分又照爾討吳道臺代國家銀一萬二千兩此外尚有小欵金能亨又供我記得公斷不應還賬內係析記洋行內銀八百九十五

沈道臺問

PETER JACOH ROHDE, a German subject, deposed—I was in the Soong Kong Force, the "Ever-Victorious Army." I joined it in March, 1862, and remained till it was dissolved in May, 1864. I held the rank of colonel. I remember the *Keor Jeor*. She was in the service of the Force from May or June, 1862, till she was taken the next year by Burgevine. She was a screw-boat, about 70 feet long, and drew from $2\frac{1}{2}$ to 3 feet of water. She was the only boat we had that could go up to Soong Kong. A steamer at that time with a gun, as the *Keor Jeor* had, had a considerable effect upon the rebels. There was no free communication by land between Shanghai and Soong Kong. She was an economical boat consuming about a ton of coal in 24 hours. The other steamers were much more expensive. I had no knowledge of, or communication with Ta Kee.

By Mr. COWIE—I know nothing about the chartering of the *Keor Jeor*.

被告狀師問

橋船係向熙爾租的等語

燒煤亦較高橋甚費我在營時係聽華爾吩咐並未見過泰記聞說高須一噸彼時該營所用各輪船並無一隻如高橋船能在內河行駛者係專遞文報之用上有砲一尊轟賊亦爲得力行駛亦快用煤一日祇月間租起用到次年被賊拖去此船約計七丈長二尺半至三尺吃水

得常勝軍租用高橋輪船係一千八百六十二年六月即同治元年五年三月進常勝軍營至一千八百六十四年撤營止在營充右哨官記

蕊德供係普國人我于一千八百六十一年來上海一千八百六十二

原告狀師問

韋斯道供大英人供與密納相同

GUSTAV T. BAFFY deposed—I am a Prussian. I was in the Soong Kong Force late in December, 1862, and remained till it was dissolved in 1864. I was Captain in the first regiment. The *Keor Jeor* was employed to run dispatches between Shanghai and Soong Kong. She was taken by the rebels in 1863. She is now running for the Chinese between Nankin and Nganking, on the Yangtsze river, and to Soochow. I was told that by a Chinese, and do not know it of my own knowledge.

JONAS HOWGATE, a British subject, deposed—In the latter end of 1862, I was engaged in the Shanghai Arsenal of that time, teaching the Chinese to make shot and shell. It was afterwards removed to Soong Kong, and I was there in the same capacity, remaining in it for two years. The *Keor Jeor* came up to Soong Kong, and to the best of my recollection Dr. Macartney and Dr. Jamieson were on board. Some

現辦之製造局也後將局移至松江我仍在局教習二年多那時我常造局內教習華人製造開花炮彈其局係在高昌廟之北並非馮道臺花乾供稱是英國人一千八百六十二年即同治元年秋間在上海製送查我現充規矩堂頭目等語

人向我說的現已忘其姓名此人現走漢口輪船上俟問明白再開單京蘇州安慶等處往來不知現今曾改船名否但我未曾眼見係聞華被髮賊拖去那時祇有此船能駛入松江內河現在聞得此船仍在南文報差使我進營時此船已在該營差用直用到一千八百六十三年八百六十四年撤營止在營充當百總高橋輪船是常勝軍租用專遞柏飛供德國人我于一千八百六十二年秋間進常勝軍營起至一千

惢德又供怎樣租高橋輪船我不曉得等語

men boarded her and took her away. Dr. Macartney and Dr. Jamieson came into the city about four o'clock, and said the steamer had been taken from under their feet. When Soochow was given up to Li Hung Chang, the Arsenal was removed to Soochow, and I saw the *Keor Jeor* there. It was close to Li's Yamên. Her bows had been blown out, and she was brought there by the Mandarin who raised her. A man named Reed, living in Shanghai, was to receive $500 for raising her, and he built a coffer-dam around her and so got her up.

The TAOTAI asked if Reed was here now?

Witness replied that he did not know. All he knew was that the boat was raised, that houses were built upon her, and that she had steam up. The man who offered the $500 was a Chinese Mandarin, who had a small Arsenal next to the other, and made mortars, &c., for the Force. He was a Government official.

The *Keor Jeor* was used by the Chinese authorities in connection with the Soong Kong Force. She was peculiarly adapted for going up small creeks in shallow water.

By Mr. COWIE—I am of opinion that when I was going to Hankow in the *Shanghai*, I saw a steamer very like the *Keor Jeor*. I cannot swear that, but I could soon prove it by the plates that were put in her at Soochow. I cannot say anything as to the chartering of the steamer.

號至此船向何人所租我不知道

花乾又供我在松江時只知高橋輪船係馬格里在上乘坐挂用中國旗

長江還見此船駛過的等語

只有此船能行內河因吃水甚淺此船經中國官修好駕去之後我在

務其局係在馬格里之鉄廠隔壁我知高橋船係常勝軍營租的那時

起拖到蘇州修好經華官帶去南京聞得此官姓張亦曾辦過製造局

船船頭艙面均被轟壞其時有華官出銀五百兩托洋人厲德設法救

蘇州與李撫臺衙門相近我在蘇時曾去高橋輪船被擄之處看過其

城脚攻打賊匪船被擄去等語嗣李撫臺克復蘇省之後我局又遷移

我記得有一夜間三四更時馬格里來廠向我說知高橋輪船在松江

到松江常勝軍營中去曾見過高橋輪船有馬格里常門斯在船乘坐

ALFRED SILVERTHORNE deposed—I am a British subject, and was connected with Ward's Force from May, 1862, till the latter end of 1873. I was Major in command of the 3rd Regiment. The *Keor Jeor* was in use when I joined the Force. She was handy for going up the Soong Kong Creek. We had no other steamer that could do it. I remember nothing more about the *Keor Jeor*.

J. F. MAC LAUGHLIN deposed—I am an American citizen, and was engineer of the steamer *Confucius* during the rebellion, when Burgevine was in command. I remember the *Keor Jeor* as engaged with that Force. I do not remember when she ceased to be so employed. I do not think there was then any other boat that could go up the Soong Kong creek. I was sent up to try to recapture her after the rebels had taken her.

By the TAOTAI—Captain Rouse was then in command of the *Confucius*, and of course he gave me the order to go.

價甚爲便宜此船每天只用煤一噸等語

船主蕊斯所命其船主係轉奉何人所使則未知也惟聞高橋輪船租後來被賊擄去時曾泝我駕孔夫子輪船追趕勢不及矣我去追趕係進常勝軍營其時係白齊文接帶當有高橋輪船在營專遞往來文報莫盖納夫楞供是美國人我在孔夫子輪船管輪于同治元年七八月間時只有此船能走內河其別項輪船祇能泊在港外等語

十三年底出營我進營時高橋輪船已在該營差用專遞文報往來彼薛爾費方供是大英人一千八百六十二年五月進常勝軍營當差至六

January 23rd, 1875.

C. E. HILL V. ESTATE OF YANG TA KEE.

THE CASE FOR THE DEFENDANT.

Mr. Drummond put in as evidence for defence a document marked "A." This is the award of Messrs. Jenkins and Rodgers, the first Arbitrators, to settle certain claims against the Chinese Government. Among the claims shown as allowed is one of C. E. Hill for Taels 12,000, for the charter of the steamer *Keor Jeor*.

Mr. Drummond then put in the document marked "Aa" which is a bill by Mr. Hill for the use of the steamer *Keor Jeor* during January, 1863 for Taels 3,000, as follows:—

"Imperial Chinese Government,

To C. E. Hill, Dr.

For use of steamer Keor Jeor during month of January 1863. Tls. 3,000.

E. & O. E.

Shanghai February 1st. 1863."

Also "B," a bill for the use of the *Keor Jeor* from the 1st of October to 31st December, 1862, three months, at Taels 3,000, total Taels 9,000.—with the words written on it "Approved H. A. Burgevine" as follows:—

"Imperial Chinese Government.

To C. E. Hill, Dr.

To use of steamer Keor Jeor from October 1st. 1862 to December 31st—3 Mos @ Tls. 3,000 per Mo=Tls. 9,000.

Shanghai, January 1st. 1863."

Also a paper marked "C," being a memorandum of the U. S. Consul-General dated July 11th, 1863; as follows:—

四C字係一千八百六十三年七月十一日西總領事親筆所書數言船租價銀每月三千兩共銀九千兩一紙此賬經白齊文核准簽名在上

中國家欠熙爾一千八百六十二年十十一十二等三個月高橋輪

三B字係熙爾討高橋輪船三個月租價銀賬一紙即

兩一紙

中國家欠熙爾一千八百六十三年正月分高橋輪船租價銀三千

二AA字係熙爾討高橋輪船租價銀賬一紙即

船銀一萬二千兩斷語一紙

一A字係第一次秦鎮西洛其二人公斷中國國家應付熙爾高橋輪

被告狀師狀門遞呈紙據

同治十三年十二月二十三日接訊各供

"Concerning the *Keor Jeor* matter I am of the opinion that the Government should pay a fair Charter. I am not authorized by Mr. Hill to say that he consents to a reduction of his claim, yet I think it impossible to require of the Chinese more than a fair Charter. All circumstances considered, I think that they cannot be legally required to pay anything. Yet as the vessel was used and was of service and actual economy I should, as an Arbitrator, decide that something fair and reasonable should be allowed.

I have talked the whole matter over with the Taotai, but he is strenuous in refusing anything.

Shanghai, July 11th, 1863."

Also a paper marked "D," an affidavit by C. E. Hill, dated June 19th, 1863; as follows:—

"CONSULATE OF THE UNITED STATES,

Shanghai, June 19th 1863.

CHARLES E. HILL, an American citizen, resident of Shanghai, being duly sworn, deposeth:—

I made a contract with General Burgevine in September last, by which General Burgevine, as agent of the Chinese Government, was to take the steamer *Keor Jeor*, and pay me Tls. 12,000. Papers of transfer were made out, and not deliverd, because I did not get the money. The original understanding was that if the purchase money was not paid by 1st January, 1863, the vessel was to receive charter-money at

議定賣高橋輪船價銀一萬二千兩已將賣契寫好因未付到價銀
熙爾供稱一千八百六十二年九月曾與代中國家辦事之白齊文
一紙卽
五D字係一千八百六十三年六月十九日熙爾在西總領事前供詞
紙
事核斷自當斷以按公道之價付還曾與吳道臺會商未允等因一
還之例然而高橋輪船官家既經用過且又曾得其力既請本總領
欠祇能照公道之價討還若以理而論以上之賬皆不能向國家索
熙爾未曾有言請我將其討價可以減小之權但此款既向國家索
內開本總領事之意高橋輪船租價中國家應照公道之價付銀惟
以備存查一紙卽

Taels 3,000 per month, and all bills paid. I now render an account for the charter-money, and Messrs. Thos. Hunt & Co. render an account for articles supplied and alterations. The alterations were made by order of General Burgevine. The charter-money is for three months at Tls. 3.000=Tls. 9,000, and one month under General Holland, same rate, making Tls. 12,000.

General Burgevine approved the first account, and General Holland wrote me a letter stating that during January the vessel was in the Chinese service, that she was under his orders, and that she was the most useful vessel he had. Before me,

GEO. F. SEWARD,

U. S. Consul.

C. E. HILL."

Also a paper marked "E," submission to second Arbitrators, Messrs. Cunningham and Hanbury, in form of a letter by the U. S. Consul, dated October 13th, 1863, as follows:—

"UNITED STATES CONSULATE,

SHANGHAI, *October 13th*, 1863.

SIR,

I send you clearly written out the terms of the Arbitration determined upon by us yesterday. If satisfactory please affix your official seal as I have already done, and return it to me. It is written in duplicate.

The Arbitrators shall be, if they will consent to act, Edward Cunningham and Thomas Hanbury Esquires. In case they disagree upon any one or more of the claims, they shall call in a third party of their own choosing whose decision shall be final. But if both agree then the Taotai or Consul, as the case may be, shall abide their decision.

內開日昨貴道在美國署中同本領事議定等語本領事已寫明兩紙照抄即

商派第二次公正人之金能亨漢璧禮二人公斷許多之賬原信一六匕字係一千八百六十三年十月十三日西總領事致吳道臺一信

此船在常勝軍用過且較別船得用等語一紙

銀一萬二千兩一賬經白齊文核准其一月之賬有霍楞來信言明係白齊文手內租用三個月霍楞手內用一個月按月三千兩共計以及旂記洋行賣與貨物等銀查改修船係白齊文所囑至租價銀此外尚有該船別項開銷我所呈之賬即討此項租銀並改修船價正月初一日止期內如不付到應照每月租價銀三千兩算還熙爾故未將契交出在初議時言明此項價銀定于一千八百六十三年

The matters which it shall be competent for them to examine and pass upon shall be the various claims against the Chinese Government or Taotai Woo on account of the Ward Corps, the Ward Estate and the "Keor Jeor" steamer, and the account of E. J. Benson, Quarter-master General.

The object in view in this Arbitration is the closing up of the whole business named and it is therefore expressly agreed that what the Arbitrators say, shall be final, and shall be binding on either party. The claims which may be declared just by them shall be paid by the Taotai within fifteen days from the time that the decision is made. Those claims which are declared not just or unsupported shall be dropped by the Consul, and never brought forward again. The accounts of Benson shall be looked into by the commission, and in case a deficit should be found, or a wrong use of moneys shewn, the Consul shall use his utmost endeavours to force a return of the amounts thus in deficit or wrongfully used.

The Arbitrators shall receive from the Taotai one per cent, and from the Consul one per cent upon all claims established against the Government or Taotai Woo as a consideration for their services.

或有不應用去之錢本總領事當盡心力追伊還欵經手算賬之人以後不復說到此事朋生之賬他等二人要查算若朋生果欠銀兩算賬內指出何項不公或不的實本領事亦當依此二人照算了結結算定妥之後不過十五天之裡貴道即當交出此銀倘此二人所本領事言明請此二人結算此賬即當依此二人爲公道但此二人輪船之賬朋生之賬爲何請此二人算賬因要了結此事故貴道與應聽從他等所算之賬即華爾帶常勝軍之賬華爾體已之賬高橋妥以後並不得反悔若所舉算賬之人意見相合貴道與本領事理他等結算此賬二人意不相符難以決斷當由他等再選舉一人定賬之人他等若是肯作此事即舉埃多金能亨與多末亨百里若是紙并盖用印信若貴道以爲此事可行請盖用印信移還再所舉算

The Arbitrators shall make their decision within Forty-five days from the date hereof.

I will address you again so soon as I have had an opportunity to ascertain whether the gentlemen above named will consent to act in the desired capacity.

I have the honor to be

Sir,

Your obedient servant

GEORGE F. SEWARD.

U. S. Consul.

To His Ex. Woo, Taotai,

Late Intendant of Circuit.

Also "F." Reply by Woo Taotai, to the preceding, dated October 18th, 1863, assenting to proposal contained in document "E."

Also "G." The report of the Second Arbitrators dated 18th January, 1864.

Also "H." A list of disallowed claims, showing rejection of Mr. Hill's claim for Taels 12,000.

Documents, A., F., G. and H. are sufficiently summarized above, and are omitted by consent.

In regard to "C" Mr. Seward stated that it was prepared after he had taken Mr. Hill's affidavit "D" and contained his opinion upon the case in view of that Affidavit.—He was not then aware that Mr. Hill had made a written charter of the *Keer Joor* to Ta Kee.

蓋因此供而書此數言以備查也當時本總領事尚未知熙爾將高西總領事諭第四C字內親寫一紙係在第五D字熙爾口供之後所書無須抄閱

以上除抄呈二三四五六等原稿字據外其餘等字據均各得悉次公斷不應斷還各賬內有高橋輪船銀一萬二千兩一欵等語八係一千八百六十四年正月十八日據金能亨漢壁禮二人聲復二七係一千八百六十三年十月十八日接吳道臺回信照議辦理等因此事本領事再行知照等因同治二年九月初一日發

算明白所派定算賬之人本領事須先去問過若此二人應允承領人算賬人之工錢經手算賬之人應從此日起在四十五日之內結道臺領事應照給算賬經手人每賬目一百兩付銀一兩以作經手

Previous to the filing of this suit no proceedings had been taken against Ta Kee through Mr. Seward.

Upon the whole evidence, including the documents just put in, Mr. Drummond asked the Taotai to dismiss the case.

THE TAOTAI said that the evidence ought to go on until they knew all that both sides had to say.

Dr. R. A. JAMIESON, examined by Mr. COWIE, deposed;—I am a physician and surgeon practising in Shanghai. I was in Shanghai in the years 1862 and 1863. I remember the rebels were then in this neighbourhood. I remember the Force called Ward's Force. It was organized for the purpose of driving the rebels out of the Province. I saw Ta Kee once only. I cannot say positively what was his connection with the Force. I believe he was paymaster of the Force. It was notorious at the time that he was so acting. I remember that Woo was Taotai during the early part of the time. I only know it by hearsay, and not by my own knowledge. I have always understood that the management of the Force was in Woo's hands, but that Ta Kee had the payment of it. I remember some foreign steamers were used in connection with the Force, and that the *Keor Jeor* was one of them. I do not know that she was chartered by the Government. I know she was used in connection with the operations of the Force. I do not believe that Ta Kee held any official rank. I remember the capture

在營當差內有高橋輪船一隻不知係何人所租祇知係常勝軍用過一面那時我常到松江常勝軍營中望友閑玩曉得有幾隻火船該營粮臺事務我想總是吳道臺主政泰記管理支應我與泰記見只曉得開常勝軍營時係吳大人任上海道事人人知楊泰記經辦勝軍該營用欵皆為剿賊之用常勝軍與泰記有無交涉我不知道莊伯司供稱一千八百六十二三年我在上海行醫其時華爾管帶常

被告狀師問被告干証

原被兩造人証口供取齊核斷可也

字據應請　道憲大人不准熙爾禀控等語旋經沈道臺堂諭俟將

被告狀師狀門陳曰核之此案各人証口供以及遞呈一二三四五六等

橋輪船租與泰記今熙爾禀控之前亦未有人來控泰記之事等語

of the *Keor Jeor*. I was on board her a few minutes before she was captured. She was captured by a party headed by Burgevine and a man named, I think, Jones. I had no reason to believe that if she had been lost, it would have been a loss to Ta Kee. When she was blown up it was regarded as a loss the Government would have to bear—that was my impression.

By Mr. EAMES—I have only stated common report, nothing of my own knowledge. I did not actually see her captured, but saw her five minutes afterwards, going down the creek, and also saw Burgevine on board. It was on the 1st or 2nd of August, 1863—on a Sunday.

FOO-E CHOW, cautioned, deposed—I am agent and rent-collector of the late Ta Kee's estate, and have been employed by Ta Kee's family for 27 years. Fourteen years ago, when the rebels were threatening Shanghai, Yang Ta Kee was head of the establishment. Woo was then Taotai of Shanghai. Ta Kee was at that time acting as manager of Woo's outside business with foreigners, leasing steamers and things of that sort, Woo not being able to speak English. Ta Kee was not the agent of the Taotai, who used him only as a means of intercourse with

代泰記質審之傳宜納供甯波人我在泰記帮夥二十七年經收房租

被告狀師問

二日等語

去出口並見有白齊文在上此事係一千八百六十三年八月初一

高橋船被擄時非我眼見當擄去約在五分時刻我見此船被賊駕

莊伯司又供我係醫生常到松江營內看病以上所供情節皆係耳聞

原告狀師問

語

首相帮搶去的我想此船被失受虧之處在常勝軍與泰記無干等

搶去之時我剛上岸離船未幾賊擄此船有白齊文並狀姆二人爲

的我雖曉得泰記有頂戴但不知是否在官之員前高橋輪船被賊

foreigners. When steamers were used for the suppression of the rebellion, along with the "Ever-Victorious Army," Woo Taotai was the master, and Ta Kee only his mouthpiece. The steamers were chartered, and the Taotai signed the charter-parties. I have never seen Woo Taotai affix his stamp to any charter. Ta Kee had no official seal, he used his own in all private business transactions, but not in chartering steamers. Ta Kee did not sign charter-parties. I remember all of the steamers' names, but know nothing about the *Keor Jeor*. I do not remember that steamer. I do not remember taking any part in the transactions about the steamers, but used to hear Ta Kee talking about them as to which were good and which were bad. I knew Ward and Burgevine, and that they had no authority to lease a steamer unless the Taotai gave the order to do so. After the suppression of the rebellion,

總須吳道臺允許方可迨剿退賊後查營中一切用賬凡係小欵泰的我認識華爾白齊文至于該營租船等事華爾白齊文不能作主從前吳道臺來泰記號內與東人商議各船好歹等事我無有不知都忘記也惟租用高橋輪船之事我不知道亦未聽有此船之名緣輪船內有海生位納末南濤糯斯天平等幾號名字當能記得其餘外並無戳印亦未自行租過輪船親手簽過字據等事營中所用之人係作生意只有泰記字號圖章一個然亦祇能買賣場中所用此與否都是吳道臺作主有吳道臺官印用在契上方始算數泰記東時營內租用船隻亦無非代吳道臺傳話議價察看船隻好歹其租務常勝軍是歸吳道臺主政泰記主人不過代吳道臺傳說西語其並管棧房進出貨物當十四年前賊亂之時原係泰記東人自主行

all Ta Kee's small straggling books and papers in connection with the Force were sent into the city for settlement by Woo. The larger accounts were settled by Ta Kee, the money being handed over by Woo to him for that purpose. Ta Kee died at Shanghai in the 4th year of the present reign,—about 1865. Woo Taotai died in the 11th year of the present reign,—in 1873.

By Mr. EAMES—I am 48 years old, and have been for 27 years in Ta Kee's service in Shanghai. I was at first godown-keeper, next had charge of accounts receiving and paying money. Was never book keeper. I used to go out sometimes, but was with Ta Kee every day, and think I should have known if he had ever signed charter-parties. I was not shroff, nor compradore, nor book-keeper. I was a sort of manager; no particular name. I had charge of silk and other goods as they came in or went out. I was not a general manager, there were three or four above me. When the Taotai came to visit Ta Kee, I used to hear their conversation. There was a special man to attend about the steamers; I had nothing to do with it. The Taotai bought the *Hyson*, through Ta Kee, for a despatch-boat. The Taotai came to Ta Kee, and said he wanted the *Hyson* purchased. I do not know the plaintiff, I have never seen him before.

語

管我不經管至海生輪船係吳道臺托東人買的原告我不認識等臺常來號內與東人議事我聽見幾次惟管輪船的事另有一人專日在號常與東人見面若東人簽有租船契據無有不看見的吳道執事名分又非扛白渡管賬看銀洋等事在我之上尚有三人我逐管銀錢票項不過轉手出入而已然賬簿並不在我手內經管我無傅宜綳又供年四十八歲在上海泰記號爲夥二十七年先管棧房後

原告狀師問

道臺係十一年故分在杭州等語

東人隨時付出皆無底賬泰記東人係于同治四年分故在上海吳記東人均隨時送呈吳道臺報銷清楚如需大欵一經吳道臺發下

By the TAOTAI—I never heard of any charter of the *Keor Jeor*, nor ever knew anything of her.

By the CONSUL-GENERAL—Ta Kee had no steamers of his own. I do not remember the *Martin White*. The *Tawah* was owned by General Ward and Ta Kee together.

LEE-WEI-SAN examined by Mr. COWIE, deposed—I belong to Ningpo, and am manager to the pawnbroker outside the North Gate Shanghai. At the time of the rebellion, I was book-keeper with Ta Kee. There were others above me. I was in the counting-room. The "Ever-Victorious Army" was inaugurated by Woo Taotai, and Ta Kee did business for it. There were several foreign steamers in connection with the Force. They were chartered by the Taotai. Ta Kee never chartered any. I remember the names of some of the steamers, but not

船幾隻均係吳道臺租的泰記東家自己並無租有輪船各船名字
勝軍係吳道臺起的泰記東人代爲經管從前常勝軍營內所用輪
元年賊亂時我在上海泰記號內管理賬房尙有別人在我之上常
李渭三供甯波人四十八歲現在上海老北門外恒德典內管事同治

被告狀師問

華輪船係泰記與華爾合買的等語

傅宜紳又供泰記自己並無租過甚麼輪船馬登位輪船我不記得泰

西總領事問

等語

傅宜紳又供高橋輪船並未見過有無我不曉得因未聽見此船之名

沈道臺問

all of them. I do not remember the *Keor Jeor*. Ta Kee used to often ask me about the chartering of steamers, but I do not remember his asking about the *Keor Jeor*. Ta Kee never used any official stamp; he had his own proper stamp, which was affixed to any important documents in which he was concerned. It had four characters. That stamp was always in my charge. It was impossible for one man always to be present. There were three or four others who could use the stamp, but I was generally present. Ta Kee was a business man, and if he did not know of anything done at the time, he knew afterwards. I do not know the plaintiff. Ta Kee never spoke to me about this claim. After Ta Kee's death, parties came to see his widow about the steamer. She did not pay them, because she said the obligation never existed.

By Mr. EAMES—I never saw Woo stamp any charter-parties. I should not know Woo's stamp if I saw it. I have been stating not what I know of my own knowledge, but what should be in all business transactions. Ta Kee partly owned the *Tuwah* and *Martin White* in conjunction with General Ward. That was in 1861 or 1862. The *Hyson*

過接生意中往來之規矩如此耳馬登位泰華兩輪船約在一千八
見有吳道臺的印信我不能認得我以上所供情節非親眼見的不
李渭三又供我未曾看見吳道臺在租船契上用過印簽過字此時若

原告狀師問

人來號向女東家討過不付等語

識並未聽見東人說過欠高橋輪船租價之事東人故後曾聽有洋
事人等經手辦事彼時東人即不在家隨後無不知的原告我不認
賬房內若我有事外出別人也能用得東人係作買賣的如號內管
緊要之事亦只用自己的圖章上面刊有四字此項圖章係存在我
我商議租船之事並未議過高橋船之說泰記東人沒有官印即如
只記得幾隻不能全記至高橋輪船我未聽有此船之名東家常與

was purchased by the Taotai. Ta Kee had nothing to do with it. I do not remember who chartered the *Firefly*. The two bills of Tls. 5000 each on account of the *Tawah* and of the Force, paid to Mr. Hill, I have no recollection of paying myself. I remember Dr. Yates coming to collect this claim. That was in the fifth or sixth year of the present reign.

By the TAOTAI—Previous to the death of Ta Kee, I never heard of a claim on account of the *Keor Jeor*, nor that she was chartered. I never knew that she was used with the "Ever Victorious Army.

By the CONSUL-GENERAL—I never heard any conversation as to the charter-party of the *Keor Jeor* between Ta Kee and Ward. No one came about this claim immediately after the death of Ta Kee. The *Tawah* was used to some extent. I do not know whether the claim on

故後不久並無人來討過高橋船租價銀兩至泰華輪船曾在常勝
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沈道臺問
橋輪船租價銀兩等語
明白我曉得有晏瑪太先生于同治五六年間來泰記號內討過高
過熙爾五千兩銀票兩次一馬登位輪船價一常勝軍之欵我記不
的與東人無涉飛而復來輪船不知何人所租至于我親手曾否付
百六十一年或六十二年東人與華爾合買的海生船是吳道臺買

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account of the *Martin White* was paid. There was no charter-party for the *Martin White* and *Tawah*. I do not remember that I ever opened a book of Ta Kee's and showed Dr. Yates an entry of Tls. 8,500 for the sale of the *Keor Jeor* to Ta Kee by Mr. Hill. I never heard of any such sale.

This closed the defendant's case.

Mr. EAMES submitted two affidavits as to the loss of the charter-party for the *Keor Jeor*. He said he believed they were admissible in any Courts of Justice. They were the affidavits of Messrs. Lewis and Rodgers.

Mr. DRUMMOND objected to their being put in, unless the witnesses could be called for cross-examination.

Mr. EAMES would not press the matter, but it was customary in Courts of Admiralty, or where loss of life occurred by fire, or in any case of loss of, or destruction of documents, to receive affidavits as evidence; and he could not understand why the rule could not be extended to a case like this.

It was called to Mr. Eames's recollection that the Taotai, at an earlier part of the case, had expressed his unwillingness to receive the affidavits.

It was arranged that arguments of Counsel on both sides should be submitted in writing, in English and Chinese, on Monday, the 1st proximo.

The Court then rose.

沈道臺諭明人未到案不准取爲証據

曰前項親供業經

訊實如有寄到人証親供例准收入案內爲証而被告狀師復又駁

隻被害火災傷命或緊要紙據誤被撕去遺失等案不論控經何官

狀師辯曰人未到堂親質不能取爲証據原告狀師又曰查例載船

二人由外國寄來親供即供高橋輪船租契委係遺失等詞而被告

被告狀師陳曰被告供詞現以取齊原告狀師復又遞上洛其魯意

船價銀八千五百兩與晏先生看過等語

爾合買的我記不得在怡和行時曾否翻閱賬簿指說內有欠熙爾

軍用過馬登位輪船亦在該營用過此二船不是租的係泰記與華

ARGUMENT OF COUNSEL.

HILL VS. TA KEE.

ARGUMENT FOR PLAINTIFF.

In pursuance of the arrangement, made at the preliminary hearing of the above named cause, I, as Counsel for the Plaintiff, now beg leave to submit a few remarks upon the pleadings and evidence in the case.

First as to the Pleadings.

The Petition was drawn by the Plaintiff without the assistance of counsel, and may be inartistic, but it clearly and fully states all the facts and circumstances on which the Plaintiff bases his claim. The Answer, on the other hand, drawn by Counsel, seems to have been framed with a view to keep the Plaintiff entirly in the dark as to the real grounds of defence. The answer, beyond a general statement of inability to answer, and a general denial of the Charter of the *Keor Jeor*, contains little or nothing except argument and certain statements that the Plaintiff recognised Ta Kee as the agent of the Taotai, Woo, which statements are not true. It will easily be seen which of the parties has shown the greatest readiness to afford every means of arriving at the truth.

之人等語均屬虛言惟閱下便知兩造孰虛孰實也
之高橋輪船並無租用之事並謂原告自知泰記係代吳道臺經辦
意欲矇蔽原告不令知其辦駁何意蓋其實無辦答之處祇渾而言
告已將索欠緣由申說明白完全矣惟被告訴詞係狀師代撰者其
查此稟係原告自行書出並無狀師襄理然雖無狀師代理而該原

一論原告稟呈暨被告訴詞

核茲辦得兩端聲明于後

查此案初會審時議定原被兩造狀師如有辦論之處應各繕呈察

美總領事西
江海關道馮 大人察核

據人証所供緣由用特代原告辦論上呈

原告狀師愛密謹將會審熙爾控楊泰記欠高橋輪船租價案內取

Second as to the Evidence.

The Plaintiff swears that he chartered the *Keor Jeor* to Ta Kee, for the use of the Soong Kong Force; and he and Mr. Jenkins swear that the terms of the charter were Taels 3000 per month for the use of the steamer for four months certain, with the privilege of using her at the same rate for such further time as she might be required; and in case of of her loss, Ta Kee was to pay to the Plaintiff, as indemnity for such loss, the further sum of Tls. 12,000. Colonel Forester also swears that the rate of the charter was Taels 3000 or $ 3000 per month, and he thought it was Tls. 3000. The fact that she was chartered in pursuance of the advice of General Ward, and was used by, and in connection with the Soong Kong Force, is, I submit, amply proved by the testimony of the witnesses already named, and by Colonel Forester, Mr. Rouse, Mr. Ashley and Mr. Rhode. As to the non-production of the charter-party, the Plaintiff and Mr. Jenkins swear that the document was delivered to the first Arbitrators, Rodgers and Jenkins, which statement would have been confirmed by the affidavits of the said Rodgers and B. R. Lewis, then a Clerk in the United States Consulate General; and those affidavits would

其二人又有公斷人之洛其暨前在美公館辦事之意二人寄到節該原告與秦鎮西二人已經立誓係交給初次公斷之秦鎮西洛況有愛喜來蕊斯蕊德等口供之又可憑也至于交不出租船契一華爾勸泰記租高橋輪船此船是在常勝軍營差用之足為明證也數因思當時英洋尚未通用定係三千兩銀數等語按以上所供是之法爾斯德立誓供稱高橋輪船租價每月三千不是銀數便是洋被遺失等事泰記賠還船價銀一萬二千兩又據前在常勝軍帮帶如再接租聽憑其便不限月數仍照每月三千兩付租並言明如船鎮西又皆罰誓此船每月租價銀三千兩包租四個月議明期滿後查原告立誓高橋輪船實係租與泰記為常勝軍差用且照爾與秦

二論人証

also have shown that the charter-party was deposited in the U. S. Consulate General. The Plaintiff swears that since he delivered the said document to the Arbitrators he has never seen it; and the former existence, and subsequent loss of the document are sufficiently proved. That the Steamer was used by the Soong Kong Force for about the time stated in the petition, namely from early, in June 1862 until her capture on the 1st. or 2nd. of August 1863, has been proved by the Plaintiff and the witnesses produced by him.

The capture of the Steamer as well as her use by the Force, is stated by Dr. Jamieson, the only reliable witness produced by the Defence, and there is no pretence that she has ever been returned to the Plaintiff. If, as stated by Mr. Howgate, she was retaken and repaired, the Plaintiff's claim should be increased.

If I am right in assuming that the charter, use, and loss of the *Keor Jeor*, and the failure to return her to the Plaintiff are proved beyond question, then it only remains to be settled who is responsible for the use

而又用在常勝軍被賊拖去並無人說及已經交還熙爾等語而論加給熙爾銀兩爲是今憑以上人証各供既稱高橋輪船實係租的供高橋輪船被失之後已經華官救起修好駕去若果屬實則更當後被髮賊搶去並稱無一人言及此船已還熙爾之說又查花乾所可信者惟莊伯司一人所供是實渠亦稱高橋船是經常勝軍所用二二被失日止計租用十四個月乃實有之事也查據原告干証所十二年六月初租起在常勝軍營用至一千八百六十三年八月初告供詞以及各人証之供既足以爲証則高橋輪船自一千八百六以上情節是前之有契屬實在後特遺失耳然契雖失去而察其原公館収存又據原告立誓此契自交公斷人之後則未見過等語核親供亦稱此項租契係交給初次公斷人及至斷定之後即送交美

and loss of her. The Steamer was certainly used in the interest of the Chinese Government, that is, in suppressing a rebellion against that Government. The Contract for the use of her was made by Ta Kee; and either he or the Chinese Government, or both, must be responsible. Even if Ta Kee was merely an Agent of the Government, and there is no conclusive evidence of this, he may yet have made himself personally liable; for according to Foreign Law, and I understand that the Chinese law agrees with it, if an Agent sees fit to enter into a Contract, in his own name, he is personally responsible.

It seems to me unnecessary to enquire whether the terms of the Charter were reasonable or unreasonable. There is no pretence of any fraud or concealment by the Plaintiff, and, in a Foreign Court, the Contract would be conclusive; but as it may be otherwise in a Chinese Court, I submit that there is no ground for saying that the terms of the Charter were exorbitant. The evidence of Mr. Miller, Mr. Westall and Mr. Cunningham shows that the *Keor Jeor* was not only a very economical and extremely useful Steamer, but that even for commercial purposes the use of her was worth the price claimed, and the testimony of the Plaintiff, Col. Forester, Capt. Rouse, Mr. Ashley and Mr. Rhode shows that she was absolutely necessary to the Soong Kong Force, and that there was no other Steamer here, at the time of her Charter; which

供皆稱高橋船惟常勝軍萬不可少之船彼時上海因無別項船隻則租價更大於此也況原告與法爾斯德及愛喜來惡德惡斯等口明高橋輪船不特租價便宜且又適得其用如此船用在生意場中憑人証供詞亦不能論其租價之貴緣有密納韋斯道金能亨等供必照前已立之契斷還銀兩雖此案係中外會審之案例或稍異然業經逐層陳說明晰並無含糊之處設此案依西例由按察司審辦則事當出名之人承任若謂租價之貴與否當無庸議蓋被告稟呈問其無實在憑據況中外之例亦相同若代辦之人自己出名承辦還抑或泰記與國家分還即使泰記係經手代國家辦事之人且不中國家用為剿賊得其力乃滅去叛逆若非泰記還銀則當國家付則試問租價及賠船價銀應誰承認夫此船租在泰記之手既供于

could have done what she did; and under such circumstances, any price would have been reasonable. Besides, I beg to remind the Court that in 1862 and 1863, every thing was very dear and the rate of interest was very high at Shanghai. Rents were in many cases five times what they are now, and materials and labor cost then much more than they do at present. The Plaintiff has sworn that in order to effect the Charter, he consented to the insertion, in the charter, of the sum of Tls. 12,000 as indemnity for her loss; but she actually cost him about twice that amount, so that, if she had been lost immediately after the charter was made, he would have been a loser.

I submit in conclusion that it is proved that the *Keor Jeor* was chartered for, and used by, the Soong Kong Force; that the business of chartering was done by Ta Kee, who was manager at the time of the said Force, and who, as Mr. Jenkins, who represented him in the first Arbitration deposes, never denied his liability; that the Steamer was very useful, if not indispensable to the Force; and that, as there is no pretence that the amount due for her use, and indemnity for her loss, has ever been paid, the amount is still due to the Plaintiff, and should be paid with interest by either Ta Kee or the Chinese Government.

此兩項價銀併連同利息至今仍欠熙爾應還耶若此銀泰記不還船價及賠船價銀並無一人付出一文而又無一人言及付過豈非事之說且言此船係常勝軍必需之船價亦便宜而得合用所有租經管初次秦鎭西代泰記公斷時秦鎭西並未云及泰記已卸去職特地租與常勝軍所用由泰記經手所租而常勝軍事務亦歸泰記去在熙爾已不免大折本矣總之上面已有衆供爲憑是高橋輪船故載明如此船被失僅欲賠銀一萬二千兩倘竟租出未久即被失熙爾立誓高橋輪船原本價銀將計二萬四千兩第彼時急待租出貴之時即以彼時房租之貴而論衡之今日之租已相去數倍矣據宜當一千八百六十二三年上海料作人工以及諸色物件正值昂如高橋船合用者但求其此船租得到手不問其租之大小已屬便

I further submit that the evidence shows that the Soong Kong Force acted, until long after the charter of the *Keor Jeor*, quite independently of the general Imperial troops; and that it was originated and managed by Ta Kee, which his negotiations for the purchase of the Steamer seem to confirm.

Further, that even if Ta Kee was not originally responsible, he did, by his promise to pay the Plaintiff "all," in order to induce him to release the Steamer when she was seized by him as testified by him and Mr. Sherman, become responsible as on an original contract, and his, Ta Kee's representatives should be held liable to pay the Plaintiff's claim with interest.

I have not thought it necessary to discuss at any length, the Defence. The failure to produce the charter-party has, I submit, been sufficiently accounted for, even without the affidavits which the Court has rejected. There can be little doubt that it was abstracted from the safe of the Consulate General.

The evidence for the Defence I shall also dispose of very shortly. Dr. Jamieson's evidence, so far as it was evidence and not mere hearsay, was entirely in accordance with the Plaintiff's statement.

The statements of the two Chinese witnesses Foo E-Chow, and Lee Wei-San are utterly unworthy of belief. The first named seems to have

聽人說知一節外餘供皆與原告相符其中國人証之傳宜綳李渭由美署鉄箱內然後被失無疑查核被告干証莊伯司供內除去有能作憑但尚有別人供明此契被失緣由為証大抵此項租契係存出一層及所有外國寄來之三人口供因人未到案親質而棄去不本利照數償還至于被告干証皆不足憑無須多議若以無租契交出自泰記親口之許亦當作為泰記新授之責任也所以泰記應將再三懇求熙爾放回並當面允承如能釋還統數歸還銀兩此言既任之名然核其原告並寶門口供當其扣留此船之際係泰記親來一氣可見常勝軍創自泰記而又係其獨管之責縱使泰記初無承高橋船以後數月之久常勝軍與華軍營仍有畛域之分而不同為抑當國家償還也此外又有可憑者照泰記自己租買輪船又照租

been little, if anything, better than a Coolie, and the second admits that he was third or fourth in order as accountant, and that Ta Kee explained all his affairs to them, seems incredible. Besides they swear that they were particularly familiar with the affairs of Ta Kee and the engagement of Steamers for the Soong Kong Force, and that they never heard, until comparatively lately, of the *Keor Jeor*. I submit that one or the other of these statements is manifestly false. Moreover, Lee Wei-San testified that the Taotai, Woo, chartered or bought all the Steamers for the Soong Kong Force; but on cross-examination he admitted that he had nothing to do with the Taotai, and Mr. Cunningham swore that he sold the Steamer "Hyson" to Ta Kee.

It would seem that the Counsel for the Defence intend to rely upon the fact that in a former arbitration (spoken of in this case as the first arbitration) the Plaintiff presented a claim for Taels 12,000 only. I can add little or nothing to the sworn statement of the Plaintiff on this head He has sufficiently explained this matter and that it was in the interest, and at the request of Ta Kee. The affidavit in support of the claim was hastily drawn and, as shown by the hand-writing, not drawn by the Plaintiff himself and, (I think I am justified in saying it) was not carefully considered; and I submit that it ought not to override his deliberate

嘱另具之供且供于匆促之時亦非熙爾親手所書者第此項供詞四個月租價係泰記所嘱討之欵至D字內熙爾之供係照泰記所一萬二千兩之數而已殊不思原告稟呈已將此事原委聲明此項被告狀師之意無非欲堅執第一次公斷此案時以爲熙爾祇索銀無交往也質之金能亨所供海生輪船則又係賣與泰記也今察得輪船皆係吳道臺租買云云迨與辨詰之下則又稱認與吳道臺並說甫于眼前聞得此船之名此言殊覺太謬又供常勝軍所用之各常勝軍所用之各輪船渠無不知覺獨高橋輪船並未聽有租用之能事事述知于李渭三聽乎故吾謂不足信也其又供泰記凡租爲事之人也李渭三自稱管賬既在第三名執事則泰記所作之事焉三二人供詞支離皆不足信蓋傅宜綳自稱彼時係代泰記經管小

statements and the evidence given in this case. On the contrary, it seems to me that the presentation of this claim for Tls. 12000 is entirely in accordance with, and confirms the statement now made by the Plaintiff. At all events, the Plaintiff considered Burgevine as the Agent of Ta Kee as Ward was before him, and a contract with him the same as with Ta Kee.

As to the two arbitrations also, namely, those which have been mentioned in this case as the first and second, I have little to say. Neither of them has been carried out by the Chinese parties to them, and of course they cannot refuse to abide by the awards, and at the same time insist that the other parties shall abide by them. Besides, I respectfully submit that the second arbitration, at least so far as the claims submitted to the first one are concerned, was a nullity. No legal objection was made to the first award, and the claimants were not asked to consent to the second arbitration; and it clearly appears by the testimony of Mr. Cunningham that the present Plaintiff never appeared, or was asked to appear, before the Arbitrators in the last arbitration.

The Charter-party must have been before the first Arbitrators, as sworn to, or they would not have approved of the Plaintiff's claim as they did; and there is good reason to believe that the Charter-party had been abstracted prior to the sitting of the second arbitration.

也如不然何能斷還墨爾銀兩惟是第二次公斷之前甫經被失矣來至該船租契據以上供証已經第一次公正人見過緣所以斷准否又據金能亨所稱當其二次會斷時原告並未投到亦未邀囑前何故而不准者且第二次復斷時亦未通知在賬之戶同允與復斷皆可當爲空言耳緣第一次所斷而中國一面未准並未照例指因自不依斷而獨欲他人照斷之理是於二次復斷第一次已斷之事公事乎至於第一第二兩次公斷中國一面既未照議遵斷豈有先一樣該原告與白齊文交接即同泰記交接無異況皆係常勝軍之據原告之意以爲白齊文既受泰記委托爲代辦之人如前之華爾概棄爲無用矣況所討一萬二千兩之賬即稟單內所討之原賬也既非逐細從容寫出之件則不能因此小有疎忽而連及全案人証

I understand that this Court does not proceed according to any technical rules; that its object is to arrive at the truth and justice, and to act and decide accordingly; and, if I am right, I am very confident that the Court will decide that the Plaintiff must be paid the amount claimed by him, with interest, and that Ta Kee's representatives must pay him.

That the Plaintiff's Steamer was very serviceable in suppressing the rebellion cannot be doubted; that the amount claimed by him for her use and loss seems to me to have been proved to be just; and if such is the case, it is obvious that the Plaintiff has been subjected to great hardship by being so long kept out of his money.

All of which is respectfully submitted.

I. B. EAMES.

Counsel for Plaintiff.

HILL V. TA KEE.

ARGUMENT FOR DEFENDANT.

The Plaintiff has utterly failed to prove any case against the Defendant, and his claim should be dismissed on the following grounds:

1. That the doctrine of law "*transit in rem judicatam*" applies, the claim having been submitted to the arbitration of Messrs Cunningham and Hanbury and by them disallowed.

一此事早經托諸公正人坤寧案及漢白理兩人中斷以故應按照案事端載於左

此案原告之控被告概無憑可據所以不應聽宜遏其控者有緣因二

爲被告辨論事

愛密狀師謹呈

熙爾控楊泰記案

明在案如此則原告被欠至今無歸已大受其若許之虧矣謹論

無疑焉至原告所討租價及賠價業據人証已將此數不貴情形供泰記子孫繳還蓋從前剿平髮逆全賴其熙爾高橋輪船之助人皆若果如此定案吾知必當連同利銀一併斷還熙爾收領且宜着令

今觀此次會審官憲必不援照西例科斷但當查明確情秉公擬斷

2. That it is wholly barred by lapse of time, in law and in equity. The maxim "vigilantibus non dormientibus jura subveniunt," "The laws assist those who are vigilant, not those who sleep over their rights," as applied by the highest legal authorities, English, and American, is decisive on this point.

3. That it is wholly unsupported by evidence, or satisfactory proof of any kind.

In support of the first ground it has been proved.

(1) That the Plaintiff placed his claim in the hands of his own Consul, Mr. Seward, that Mr. Seward arranged an arbitration with the Chinese authorities before Messrs. Jenkins and Roggers, and the Plaintiff succeeded in inducing them to allow it—see A, dated 3rd March 1863.

(2) That this arbitration was unsatisfactory, and was set aside by mutual agreement between Mr. Seward and the Taotai, Woo, (Mr. Seward's evidence.)

一此次中斷不安也曾經吳道臺與西秦領事相允不納此事應以西公
爲徵焉
之准從其請以一千八百六十二年三月初三日所開列A牘一紙即
事諉之公正人中斷既推立秦仁士及羅查士兩人原告僥倖一時使
一原告曾經以此案托諸西總領事代爲辦理西公與吳道臺商定將案
今將右文辨論第一條駁徵各端開列於左
三此案既無實証可指又慨無憑可據
案則已爽然無復有言也
遑訴者不然也此典英美兩國最高名例師未常不以爲科今繫之此
一因延時久故照例案理皆全不能控問古言曰勤者王例匡之寢者不
諉諸公正人公斷後王例不復及律例此案應毋再問

(3) That a fresh arbitration was agreed to between Mr. Seward and the Taotai before Messrs. Cunningham and Hanbury, when the former undertook "never again" to bring forward any claims which these Arbitrators disallowed, and the Taotai agreed to the arbitration on that undertaking, see E and F. October, 1863.

(4) That the Plaintiff assented to these arrangements and furnished evidence by filing an affidavit before Mr. Seward, "D," June 19th 1863.

(5) That these Arbitrators wholly rejected Mr. Hill's claim (G. and H.) 18th January 1864, and this arbitration has never been set aside, or impeached.

(6) That the claim of Tls. 12,000 thus rejected was for the same Steamer and during part of the same period for which payment is now claimed.

載列雇船時候究係現在討狀內載雇船日期十四月內四月係同時
一彼時中斷不准該一萬二千兩之討賬究屬爲高橋船所討且討賬內
從未置駁也
十八日立GH兩紙爲辨徵焉兼且彼時公斷事向來從未作癈議又
一新立公正人曾經全不准熙爾討賬一事以一千八百六十四年正月
三年六月十九日所立D牘爲辨徵焉
一原告經已久從右議且又在西公面前立誓單爲証以一千八百六十
斷之法也以一千八百六十三年EF文牘兩紙爲徵焉
公經議明公正人所不准各端伊永後不提所以該道甘心從允此公
一西公與吳道臺旋經再議新立公正人繼坤寧案及漢白理兩人而西
口証爲憑也

The Arguments in support of the second ground are:

(1) That the Plaintiff's claim is for charter-money from June 1st 1862 to August 1st 1863, fourteen consecutive months at Tls. 3,000, a month, Tls. 42,000, Indemnity for loss, Tls. 12,000, and interest.

(2) That his Petition is dated 29th December 1873.

(3) That his claim is therefore upwards of eleven years old.

(4) That Ta Kee, Woo Taotai, Burgevine and Ward have all died during this period.

(5) That the Plaintiff's evidence discloses the fact that he was aware of his claim throughout this period, that he was during a great part of the time in China, that he employed Dr. Yates as his Agent to press his claim, that no petition has been filed previously.

當先未常具稟立狀何也

年月不少且又托晏先生代爲經辦討銀事此賬心雖覺有之不忘而

一即原告親自供証者藉知當時以來之十一年內原告親自寄居上海

一十一年之內經泰記呈道臺白齊文華爾四人各謝世不在

一以故原告經延擱十一年而後始告

一於西歷一千八百七十三年十二月二十九日始行具稟討銀

四萬二千兩並補失船賠項暨利息各欵

千八百六十三年八月初一日止共閱月十四每月租銀三千兩合銀

一原告討雇船租銀計自西歷一千八百六十二年六月初一日起至一

右列辨論第二條各駁徵開列於左

不異

(6). That no evidence has been given by Dr. Yates, (though he was present throughout the case) explaining his action, or inaction in the matter.

(7). That by English and American law a lapse of six years without a suit being brought is sufficient to bar this claim.

The authorities in support of this ground are: "Bell v Morrison" 1 Peters (U. S.), R. 360 in which Mr. Justice Story observed. "It has often been matter of regret in modern times that in the construction of the Statute of Limitations (21 Jac. 1 c. 16) the decisions had not proceded upon principles better adapted to carry into effect the real objects of the statute; that instead of being viewed in an unfavorable light as an unjust and discreditable defence, it had not received such support as would have made it what it was intended to be, emphatically a statute of repose. *It is a wise and beneficial law*, not designed merely to raise a presumption of payment of a just debt from lapse of time, but *to afford security against stale demands after the true state of the transaction may have been forgotten, or be incapable of explanation by reason of the death or removal of witnesses.*

輩圖逞其事實情既忘不能詳解或見証故亡移散不能明澄而乘間以意並非欲使人有所藉以假佯經已清付應還之債也其實志欲防禦若以故輒不喜於施行不知此例果屬安人之條實爲謀遠裨益之善例立有逆理之狀蓋問官每視爲徵諸書逞例端以僥倖追免實無臉之辨法條世之問官每藉此以定讞惜乎不十分心覺立條之志意以致此條或

美國白兒告馬立孫R 360 一案按察使士多里定讞諭曰所立限時律一

今引寫例記所載各成案以徵之計

准聽也

一即按照英美兩國載例則以事延緩六年後不准立狀律條此案不可能辦就各原由也

一晏先生此事先後雖於預然亦未常進供詳明其如何接辦其如何不

Also the following:—

"Where the demand is strictly of a legal nature, or might be cognizable at law, courts of equity govern themselves by the same limitations as to entertaining such suits as are prescribed by the statute of limitations in regard to suits in courts of common law in matters of account. If, therefore, the ordinary limitation of such suits at law be six years, courts of equity will follow the same period of limitation. But where the demand is not of a legal nature, but is purely equitable; or where the bar of the statute is inapplicable; courts of equity have another rule, founded sometimes upon the analogies of the law, where such analogy exists, and sometimes upon its own inherent doctrine, not to entertain stale or antiquated demands, and not to encourage laches, and negligence. Hence in matters of account, although not barred with the statute of limitations, courts of equity refuse to interfere after a considerable lapse of time, from considerations of public policy, from the difficulty of doing entire justice, when the original transactions have become obscure by time, and the evidence may be lost, and from the consciousness that the repose of titles and the security of property are mainly promoted by a full enforcement of the maxim, "Vigilantibus, non dormientibus, jura subveniunt." It is here said a court of equity will not allow a dormant claim to be set up when the means of resisting it, if unfounded, have perished; much less cast upon the defendant the burden of proving an affirmative when the witnesses that might have proved the fact are all dead.

難於保全也以公利論萬不可不以此典爲表云云例匪助寢者不遑訴者不然古典爲常率則安享爵位安居貨產皆肯置聞也蓋恐原情被時久所昧或証據積年遺失若非以勤者王之各公堂於究察債賬案件卽不以限時例爲表若延時已久仍不討問古往之陳事不准焉誤延失愼各行不匪焉是以凡惟施常理例而亦相仿者也抑或基於常理而爲準者是也蓋此制則如此矣與限時例不便施行之處則準理各公堂又有一制似猶屬基於限自然以六年爲率但所討者旣非因例以討實因常理所討而已或准是以施載例之各公堂旣以六年爲限期則施常理之各公堂亦又曾謂曰凡公堂不以載例而以常理定案亦以限時條例輒爲率駕於人云云

And it is here said, that waiver or acquiescence like election, presupposes that the person to be bound is fully cognizant of his rights, and, being so, neglects to enforce them.

In support of the third ground the Arguments are :—

(1). That the only evidence as to the existence of a charter-party are the statements of the Plaintiff himself, and Jenkins.

(2). That Jenkins' evidence is vague, and uncertain, and discredited by the fact that though he, as one of the first Arbitrators, allowed the full claim then made by the Plaintiff yet his arbitration was admittedly so unsatisfactory that the Consul agreed to set it aside entirely, that the second Arbitrators placed no reliance upon it, and finally rejected entirely what he had allowed in full.

(3). That the Plaintiff's sworn evidence in this suit is flatly contradicted by his own affidavit D of eleven years earlier date. He now says he dealt with Ta Kee alone, and looked only to him throughout, that Ta Kee and Ward signed the charter-party and that Burgevine

單究相駁不符卽今所供僅與泰記一人辨事惟向泰記是問聞簽名一原告於此案立誓必從眞呈供也而所供者與十一年以前所立D誓以此證人所供究不足爲憑

第二次立公正人又皆不以之爲公而竟將其所准者全行不准也是全淮然後領事因其中斷者咸稱不公遂議允將所斷者置之不顧卽一秦金士所供含糊不明兼且追憶伊爲先立公正人原告所討伊皆行一其原立雇船契紙惟原告及秦金士兩人口供可因爲徵者而已矣

右列辨論第三條各徵開列于左

延緩不前者必疑其早覺是非旣早明其非是以先於早討告云云已廢失乃不准行況見証皆故忘被告不可引爲證據耶且又曰凡又謂曰施常理各公堂凡以久寢之事討問倘若所以辨駁各據皆

never renewed it and he now claims only against the private estate of Ta Kee, and not against the Chinese Govt: Whereas in *June*, 1863 he made an affidavit in which neither Ta Kee nor Ward are mentioned stating that he made a contract *with Burgevine as Agent of the Chinese Govt.* for the sale or charter of the same steamer; and sent in two bills headed, Imperial Chinese Govt. to C. E. Hill, Dr. claiming charter-money at Tls. 3,000 per month for the months of November and December, 1862, and January, 1863, being part of the very same time now claimed for against Ta Kee. His only explanation amounts to saying that he did so because Ta Kee asked him to do so. If that affidavit was untrue, no matter who asked him to make it, it renders all his evidence untrustworthy: If it was true then his evidence in this suit on the main point must be untrue.

問之事原不可准也

供稱推之亦皆仍不足取信也倘若該誓單果眞也則此案向泰記討則倘若伊彼時所立誓單不屬信眞則不據何人請其立單以原告所陳此事僅謂日彼時呈欠單僅不過聽泰記之吩咐而已但以理揆之兩者俾此三閱月究係屬包在原告現今向泰記所討之銀而原告解十一十二兩月及一千八百六十三年正月又一月每月計雇銀三千各首載中國御國家欠銀於熙爾字言計討西歷一千八百六十二年文爲經手國家事者而與之立約或賣或雇該船者並呈欠單兩紙內百六十三年六月立誓單並不提及泰記華爾兩人反陳曰伊視白齊惟向泰記是問而不向中國家而討各言語但據原告於西歷一千八雇船契者泰記華而兩人也繼而白齊文並未從立雇契是以伊現在

The maxim "allegans contraria non est audiendus" (he is not to be heard who alleges things contradictory to each other) is applicable here. In the case of "Wood v Dwarris" 11 Exch: 493 Lord Kenyon observed "a man shall not be permitted to blow hot and cold with reference to the same transaction or insist at different times on the truth of each of two conflicting allegations according to the promptings of his private interest." If it be said that there is room for any doubt as to the meaning of the affidavit D then the rule "verba chartarum fortius accipiuntur contra proferentem" (the words of an instrument shall be taken most strongly against the party employing them) must be applied, but it is submitted that there is no room for any such doubt.

Mr. Seward's memorandum C, makes it almost certain that the Plaintiff dealt with Burgevine only in regard to this steamer, and that Burgevine had no sufficient authority to bind the Chinese Govt. It is not denied that there was such a steamer as the *Keor Jeor*, and that she was used in connection with the Force employed for suppressing the rebellion but the whole of the evidence shows that she was used *solely for Govt. purposes* which gives no ground whatever for a claim on Ta Kee's private estate. If a claim could have been substantiated it would have been against the Chinese Govt. and that claim was made and disallowed by the arbitrators eleven years ago.

但此討曾經於十一年以前具稟所立公正人有經已不准也後裔之私產設使果然曾有討銀之憑則討銀惟向中國家而能討問似屬實有但憑各證據則知該船惟特供國家之用並無可討諸泰記其曾有一火船名高橋者此事原不駁且此船曾供用勦平亂人者亦事幾乎可爲憑無疑然則白齊文究不操權可足以纏約國家者即西華總領事所陳言係載在C紙則原告於雇船似惟與白齊文行辭者而用之古典而辨但竊思該誓單所陳者實無疑也云云故設是誓單之辭難於剖斷其是非乃照具辭單不利之處向立是旋非不一且不准其因私將不相符之陳說一時非此一時是彼也得瓦里士一案 Exch 493 克尼安按察使諭曰陳說事一端不准人任意隨一凡供稱屬相駁者之人不可聽其告狀一古典於此案相徵即元得控

Ta Kee is proved to have been merely an Agent or officer of the Chinese Government in these matters, and a suit against the *personal* representatives of an Agent or officer of the Government in such a case as this could not be sustained for a moment either in England, or America.

With regard to the charter-party, bill of sale, and memorandum in English and Chinese, it is stated by the plaintiff that they were handed to the first Arbitrators and were deposited by Mr. Lewis, a clerk in the shipping office of the U. S. Consulate, in his safe, and are now lost. There is no evidence to show how they could have been lost, or any explanation why evidence has not been obtained from Mr. Lewis. Other documents connected with the first arbitration are now in evidence. They were clearly not produced before Messrs Cunningham and Hanbury in 1863 (only a few months later) though efforts to get all evidence in support of this claim were then made. The affidavit "D" mentions no

白里二人之時雖經盡力求得此賬之憑文而高橋憑文其仍未呈上僅數月之久於一千八百六十三年內第二次立公正人坤寧案及漢士如何不供証解明其事先次立公正人所有文憑猶尚陳存而當後守而文牘旋被遺失不見但其如何遺失皆無實証兼又不解明魯意公正人查收又旋經轉托諸美國領事署內寫字人名魯意士者爲存至於雇船契賣船契並英華兩文欠銀單原告稱日慨經呈于先立之事向其私產討問也

英美兩國之例爲國家經手事務者或膺任代辦官職者概不可以國國事向其私產討問也

照英美兩國之例爲國家經手事務者或膺任代辦官職者概不可以泰記經已引証憑知悉僅爲中國家經手之人抑或爲代辦之員願按

charter-party, and speaks of the "original understanding." The statements as to the signing and sealing by Ta Kee, and Ward (both of whom are dead) are unsupported, and are denied by the Chinese witnesses and the necessary inference from all this, is, that no such document ever existed.

Nothing but the strongest evidence could make this claim worth a moment's consideration, and there being no charter-party, or proof of contract the case should be dismissed.

It is suggested that the following is probably a correct solution of the facts in question but it is immaterial to the Defendant's case.

Hill, (the Plaintiff) made a verbal agreement with Burgevine, (see C and D) for the sale, or hire of his steamer *Keor Jeor* not knowing whether Burgevine was authorized to make such an agreement, or not, and taking his chance of getting payment. Burgevine used the steamer for a short time in the Imperial service, without his agreement ever being ratified by the Chinese authorities and on leaving the Imperialists and joining the rebels enabled the latter to seize it, (see Dr. Jamieson's evidence). The rebels kept it for a considerable time and finally the Imperial troops retook it when they conquered the rebels, and the Chinese authorities considered it simply as a prize. As Burgevine was dead and the rebels conquered, the only chance left for Hill was to try to get some-

僅視如得勝賞物而已因白齊文身故長毛又敗潰則在熙爾惟留向憲亦仍然從未徵其事迄白齊文棄官從匪時乃乘間擄捉高橋船而圖僥倖冀可到手耳於是白齊文歷時稍久以國家事使用該船而華文是否操權可為國家定船故得銀不得銀原告尚情願草率從事以約以C D兩文牘為據欲將伊船名高橋者或雇或賣但伊不知白齊實無干然揆衡其實似乎如左例者蓋原告熙爾曾與白齊文當面口聞況原告無雇船契及寫立合同可為據也查該火船在情形於被告之事也此等之案非有實無稍疑之處可據則不足容一刻時候之聽華証兩人賴駁也以故揣索實情則惟有心覺該各文牘皆屬未嘗有議兩字所言已故之泰記華爾兩人簽名加印者皆無憑可據且又被者已有實憑可據即所立誓單D一紙內並不言及雇船契惟聲稱原

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It is quite possible that Hill was paid part if not all he was entitled to from Burgevine, but if not, and if the foregoing suggestions are correct, he is merely a victim of misplaced confidence in Burgevine and a sufferer from his own want of prudence in parting with his steamer without any security whatever.

W. V. DRUMMOND,
Counsel for the Defendant.

GEO. J. W. COWIE,
Counsel for the Defendant.

HILL V. TA KEE.

REPLY TO THE ARGUMENT FOR DEFENDANT.

I have very few remarks to make in reply to the argument for the Defence, as I have already in my argument for the Plaintiff, replied in advance, to the greater portion of those arguments; but I feel that I ought to notice a portion of them.—

First.—I am not aware that in Chinese law and practice, and I understand this to be a Chinese Court, there is anything analogous to the English and American Statute of Limitation, and it has seemed to me idle, to say the least, to cite foreign authorities or foreign law. In

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查此案先已辨論致復被告矣茲再摘其數端而言及之

原告狀師愛密辯駁被告狀師論開後

經理楊泰記事大英狀師大門高易同具

自所取也

之火船失愼輕率以從事不先得文憑質抵而交船於人則其受悞亦屬員則原告被欠不收者不過由于悞信白齊文所致而已既將已有屬或有之事亦尚未知雖然假設欠項果未獲收倘若右文所撰情形熙爾被欠之銀其曾向白齊文收納或十分之數分或十分之全數猶矣今既越十年之久乃不料又從新生計向泰記後嗣又圖討銀也中國家試討銀之圖而已業經於中斷各賬時試行此法也而法無濟

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屬眞則原告被欠不收者不過由于悞信白齊文所致而已既將已有
屬或有之事亦尚未知雖然假設欠項果未獲收倘若右文所揆情形
熙爾被欠之銀其曾向白齊文收納或十分之數分或十分之全數猶
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a foreign Court foreign law would be administered, and I presume that Chinese Courts apply their own law. The delay in the prosecution of this claim has been, I submit, sufficiently accounted for. The Plaintiff, for a long time, hoped to settle the case without bringing it into Court.

Second.—I have already spoken of the two Arbitrations mentioned in this case as the first and second, and have nothing to add except this, that if the Defence mean by their statement that the "Plaintiff assented to these arrangements," that he assented to the second arbitration, that allegation is untrue as shown by the evidence of the Plaintiff and also by that of Mr. Cunningham, one of the Second Arbitrators.

Third.—As to my omission to put Dr. Yates on the stand, I have nothing to say, the Court being fully aware of the reason of that omission. Of course the Court can, at any time, ask such questions of Dr. Yates as the justice of the case may require.

四所云秦鎮西供詞含糊其所斷亦不公允等語惟此案當其公斷之詢取可也

其供且俟　西總領憲馮道憲會同定案之日屆時晏先生必在其座儘可三若論不取晏先生口供一節此事惟有西總領事明鑒倘必欲取其律論之殊屬虛謬請閱原告暨金能亨口供便知虛實也

允請西總領事派由公正人會斷等語此言若牽涉第二次公斷一二第一第二兩次公斷緣由業經聲明今閱被告狀師論此案係原告因何遲延不控之處已申說於前矣

數年之前本不欲成訟意在與秦記總可理處明白至秦記故後其當焉夫案控西人當照西例辦理控華人當照華例辦理在原告於前債之例且此案係控華人即為中國之案若引西例請辦則失其

Fourth.—As to the remarks upon Mr. Jenkins' testimony, it ought to be sufficient to say that he was not impeached or discredited; but, in addition, I beg to call the attention of the Court to the fact that he was selected by Woo Taotai and he saw Ta Kee "almost every night" during the first arbitration. Moreover, Mr. Jenkins' business, being, to a great extent, with the Chinese, it is incredible that he would warp the truth to injure Chinese.

Fifth.—As to the Plaintiff's affidavit marked D, I have nothing to add to my first argument. The explanation of that has been already clearly made.

Sixth.—The Suggestion, by the Defence, that a witness is not to be believed who testifies inconsistently has, as far as the Plaintiff's testimony is concerned, already been replied to; but it might, perhaps, be borne in mind when the testimony of Foo E-Chow and Lee Wei-San is under discussion, especially as they state that they were very familiar with the doings of Ta Kee and the employment of Steamers by the Soong Kong Force, and that they never heard of the Steamer *Keor Jeor*; yet the Defendants admit in their argument, that she was employed by that Force.

七高橋輪船究竟有無此船否常勝軍曾用過此船否在被告訴詞內是所禱切

爲常勝軍所用也務請　會審大人核斷此案時幸勿將此節忘却

知泰記之事亦未聽有高橋之名何被告狀師則又認高橋輪船是軍所用之輪船尤爲明悉獨高橋輪船之名未曾聽有等語即使渠宜納李渭三二人供稱泰記所行之事無有不詳悉者而更於常勝六被告所論人証口供若先後不符不能作準吾已辨答過了惟查傅五D字熙爾口供業已稟陳明晰

來交易最久頗爲相得豈肯誣言而貽患於華人耶

之時楊泰記亦先與其朝夕討論查對賬目況秦鎭西向與華人往後並無人言及有不公允之處且其係吳道臺所派之人當其將斷

Seventh.—The existence of the *Keor Jeor* and her use by the Soong Kong Force, though denied by the answer, is admitted in the argument. Ta Kee's agency for the Chinese Government has not been proved; and the evidence for the Defence, if it proved anything, proved that he had no official Seal, which would seem to negative the idea that he was an official.

Eighth.—It is said that there is no proof of the loss of the Charter-party. The Plaintiff has sworn that he never saw it after he delivered it to the First Arbitrators; and the Affidavit of Mr. Lewis, which, I respectfully submit, was improperly rejected, would have made this matter perfectly clear.

Ninth.—I will not take up the time of the Court by any reply to the somewhat extraordinary explanation of the Plaintiff's position, suggested near the close of the argument for the Defence, but I feel bound to say that not the slightest evidence of the total or partial payment of the Plaintiff's claim was adduced.

All of which is respectfully submitted.

I. B. EAMES,

Counsel for Plaintiff.

REPLY TO THE ARGUMENT FOR THE PLAINTIFF.

In reply to the argument of the Plaintiff's Counsel, Mr. Eames, in support of his case it is only necessary to say:

今閱原告狀師愛密訴論案事爲被告駁論不須贅言但答應原告訴論續篇

愛密狀師謹又呈

無絲毫憑據謂熙爾收過租船價或賠船價一文也

九熙爾之賬以被告狀師所論云云係屬偏見之言似不足之辯白惟其中虛實爽然可知也

交與公正人之後特未見耳若魯意寄來之親供苟能取以爲証則八或曰高橋輪船租契被失一節係無憑之語殊不知原告已經立誓供泰記並無官用印信即此可以見泰記並非官員之明證也

軍用焉若論泰記係代國家經辦之人則未見確據且被告干証既稱並無此船而核之被告狀師辯論則又稱高橋輪船是供於常勝

That the references to what "*would*" have been proved by affidavits which are rejected by the Court, and are not in evidence at all, are wholly improper, and should be omitted from consideration.

That Mr. Eames' attempt to give evidence himself saying "Besides I beg to remind the Court," *et cetera* is also improper.

That the greater part of the argument is devoted to showing that there was such a steamer as the *Keor Jeor* belongiug to Mr. Hill and that she was used in connection with the Chinese Forces, and that the amount of Charter-money claimed is not exorbitant.

The argument has already admitted the first and second of these allegations and the Defendant has never, throughout the case, referred to the third allegation, or made the question of amount of charter-money any ground of defence.

The rest of the argument for the Plaintiff has been fully answered by anticipation in the argument for the Defendant already submitted.

W. V. DRUMMOND,

Counsel for the Defendant.

GEO. J. W. COWIE,

Counsel for the Defendant.

經理楊泰記事大英狀師大門高易同稟

之大爭辨也其外原告訴論內各端經被告預先皆詳答無遺但第二第二端經被告辨論內認明不駁若第三端被告猶未嘗以價軍使用及雇船租銀不奢等意耳

原告訴論各詞置言大半只屬熙爾曾有火船一隻名高橋者船被官言于公堂各事請不忘等語然此言殊屬不宜進非事體且不宜置諸問聞焉愛密狀師欲親自進証謂日本狀師清進所提及公堂不納者各誓單內所能爲澄然此究不足取証引之既殊

MEMORANDA

OF FOUR CONVERSATIONS

BETWEEN

THE U. S. CONSUL-GENERAL

AND

THE TAOTAI:

AND

THE TAOTAI'S JUDGMENT

IN THE CASE

HILL *versus* TA KEE.

SHANGHAI:
AMERICAN PRESBYTERIAN MISSION PRESS.
1875.

MEMORANDUM

Of a conversation between Mr, SEWARD U. S. CONSUL-GENERAL and FENG TAOTAI, upon their meeting to decide the case of

HILL *versus* TA KEE.

SHANGHAI, *June 26th*, 1875.

THE TAOTAI,—

Mentioned the award of Messrs Cunningham and Hanbury Arbitrators and said that he did not see how the claim of Hill could be brought forward again.

THE CONSUL GENERAL said,—

But 4 months charter out of 14 was put before the Arbitrators. The Arbitrators had to decide upon the claim as presented against the Government. It is now presented against Takee. Only a small part of the claim went to the Arbitrators, and that part by a mistake. But granting that this claim was submitted to Arbitration the award is not binding on Hill because Woo has not observed it. Woo could not claim the benefit of an award the obligations of which he has rejected.

THE TAOTAI said,—

Woo did right: he ought not to pay more than he considered just.

THE CONSUL GENERAL said,—

Woo should have followed out the award of the Arbitrators. It could

西總領事曰吳道臺應照公正人所斷譬如兩人商派公正人會斷一
馮道臺云吳道臺不錯以爲不公不應付出
依斷而行是豈能于同一斷欵一則照斷一則不照斷可乎
過而所斷熙爾之欵亦不能作準蓋從前公斷欵內吳道臺亦未曾
查前次公正人會斷之賬無多且此欵原意本不欲其公斷即是斷
个月租價係向中國家索欠之欵今日之賬乃向楊泰記索還者也
西總領事曰此案原共欠十四个月租價從前公正人經手所斷只四
因何復又提及
馮道臺云此案前經公正人金能亨漢壁禮二人斷定現在不解熙爾
熙爾控楊泰記欠高橋輪船租價一案情由譯列于後

大清江海關道馮　于光緒元年五月二十三日初次會同商斷已審之美商
大美總領事西

not be tolerated that a party to an Arbitration should throw overboard the obligation imposed by the award, taking the benefits.

THE TAOTAI.

Asked for document "E."

THE CONSUL GENERAL.

I will get it out and show it to you. But I must point out again that we are dealing with a claim against Takee, not Woo, and that reference to document "E," is not necessary.

THE TAOTAI.

Did Hill put his claim before the second Arbitrators?

THE CONSUL GENERAL.

He did not. I put a part of it before them. He, at Takee's request, had put a part of his claim before the first Arbitrators. These papers were in my hands, and by me put before the second Arbitrators without any knowledge that Hill had a further claim, and without an exact understanding of the business. I thought that I understood the matter, but I now find I did not. There were a very large number of claims amounting to half a million of dollars.

嘗詳悉當交公正人之各項賬目甚多計銀共有五十萬兩之奇當
形亦未明白彼時吾想不過自覺微知其情及至今日始知從前未
旋即轉交與第二次公正人之時尚不知熙爾之賬究有幾何其情
記勸熙爾交四個月之賬與公正人斷的此賬後來交與本總領事
西總領事曰否乃本總領事所交係四個月之賬按初次公斷時係泰
馮道臺云此賬交第二次公正人時是否熙爾交出
欠係向楊泰記索還之欵E字一紙當無用處
西總領事曰原可檢出請看但有一言奉明要知現在非向吳道臺索
馮道臺云本道欲看E字一紙
取其所斷之利此其斷不可行之理
事治斷定後不得有一人避去其所斷己之分內應得之咎而轉欲

You, the Taotai, know that this steamer was used. I know it. I was here, and you were here, and we saw it. The Magistrate Chen (who was present at the interview) knows it. She was used for fourteen months. The Government had the benefit. She was used in the public service. But Takee is first responsible because he made the contract. But if Hill cannot recover from Takee he will pursue the Government. The old award does not bind Mr. Hill because the award has not been observed by Woo.

THE TAOTAI.

We admit that the steamer was used but we do not know but that Takee paid for the steamer. The time is very distant, people are dead or absent, and proofs not easy to get.

THE CONSUL GENERAL.

The defence has been that Takee was not responsible. It has not heretofore been suggested that he has paid something on account or in full. If he did his books will show it. He was a business man. Hill's receipt also would be forthcoming. Hill swears that he has not had any thing on account.

買賣之人苟已付過租價其賬簿必當註明而必并有熙爾之收據人說及一言謂熙爾已將租價全數收到或先收過若干泰記本爲西總領事曰會審此案時被告皆稱非楊泰記之責任而此欵未曾有前者之人今死者死矣離滬遠出者而有矣以致難有實據馮道臺云我等雖認高橋輪船用過特不知未曾付其租價事隔歷久未依照所斷

向國家索還第二次公斷時未曾阻斷熙爾不得復告緣吳道臺亦係泰記經手所租是以向泰記索欠如熙爾向泰記討不到手尙要用過十四個月況此船代中國家出力而國家曾深得其益此船本滬亦深知此事皆彼此親眼見過今陳分府一同在座渠亦知此船時貴道亦在上海當知高橋輪船實係用過而本總領事同時在

THE TAOTAI.

Takee is dead. His books may have been destroyed.

THE CONSUL GENERAL.

Down to February 1864, Takee had paid nothing. Otherwise Woo would have said so to the Arbitrators when the "Korjeor" claim was presented to them. Woo and Takee were intimate friends. Takee died in 1865. His wife or people would have known of any payment made after his death.

THE TAOTAI.

He must have had a reason for not paying.

THE CONSUL GENERAL.

This answer would do if it was the sole instance in human experiences of a debtor failing to pay his just debts. In this very connection you have seen Woo Taotai fail to pay what Arbitrators have shown to be due from him.

THE TAOTAI

Taotai Woo must have had a reason for not paying; besides, why has this business remained open so long?

馮道臺云吳道臺必有爲何不付的道理此案何以延擱至今之欵而吳道臺亦未照付

貴道所云猶或可也然而　貴道亦知公正人所斷賬內尚有應付西總領事曰若以此爲自古及今人之第一人欠債可以不還則就馮道臺云泰記不付此欵想當總有緣故

之妻或其家中經手辦事之人必能知覺

記最爲交好泰記係故在同治四年若此欵係在此後所付則泰記令公正人知道緣高橋輪船一賬係交由公正人之手吳道臺與泰西總領事曰同治三年正月間泰記尚在未付如已付過則吳道臺必馮道臺云泰記故矣其賬據或遺失了

呈出並據熙爾罰誓伊賬實未收到一文

THE CONSUL GENERAL.

It has remained open so long because up to the date of Takee's death he indicated that he would pay. After that the Widow was in mourning, and delays occurred; later on Hill was absent, and I was absent myself. All the delays are accounted for in the evidence.

THE TAOTAI.

Certainly Takee must have had reasons for not paying, and I cannot understand why the claim has not been pressed.

THE CONSUL GENERAL.

You will find why the claim was not urgently pressed all set out in the evidence. There is no flaw—why should you have doubts?

THE TAOTAI.

No one is able to testify to Hill's relations with Takee and whether he was not paid.

THE CONSUL GENERAL.

Is it to be supposed that having this claim continually brought before them Takee's people would neglect to preserve all evidence of payments made? Here I have a vast quantity of papers pertaining to claims against Woo and Takee. In these I have no pecuniary interest. Would Woo or Takee fail to preserve their papers less carefully?

之賬據此項欵內于本總領事毫無受益之處尙欲代其留心然在不留心熙爾的收據卽如本署有許多人向吳道臺及向泰記索欠西總領事答曰此欵熙爾常常索追若已付過則泰記家屬之人豈有馮道臺云無人知覺泰記與熙爾往來之欵未曾付出疑之處

西總領事答曰請看口供便知未得早追之故此案毫無遁飾有何懷馮道臺云泰記不付必非無因本道不解因何不早控追已于會審之口供內聲明矣

爾又因要事回國迨回上海而本總領事又不在滬矣其遲延情節還是以不控及至泰記故後因其妻在服制之內故未去討在後熙西總領事曰其所以延擱今日者緣直到泰記身故時尤允許熙爾照

THE TAOTAI.

There is no evidence that money was not paid to Hill.

THE CONSUL GENERAL.

There is evidence. Here is Hill's sworn statement. He is a truthful man. The failure of the defence to produce book-entries or receipts is further evidence.

THE TAOTAI.

There is no evidence of the Charter. No evidence of the monthly rate. No evidence that payments have not been made.

THE CONSUL GENERAL.

Everything that is in evidence is in this printed book. The case was heard with great care and this is the result This evidence has been submitted to and approved as correct, by the lawyers on both sides.

THE TAOTAI.

The Arbitrators (alluding to Messrs Hanbury and Cunningham) decided that the claim should not be paid.

THE CONSUL GENERAL.

Yes, that a part presented to them by me in error should not be paid by Woo. The claim is now brought against Takee's estate.

西總領事答曰然但此四個月之賬即是本總領事既已誤交而所斷
馮道臺云公正人金能亨漢壁禮二人斷不應付
供刊刻復交兩造狀師閱過無訛
西總領事答曰人証口供可憑均刊入刻本內此案係研訊確實後錄
據
馮道臺云無租船據又無每月應付租價若干以及未曾收過租銀等
未曾收到銀兩之明証也
無呈出已經付過價銀之賬簿又無熙爾收銀之憑據此皆係熙爾
西總領事曰有據熙爾人甚老誠據其罰誓實未收過等語且被告既
馮道臺云熙爾並無實未收到銀兩之實據
吳道臺及楊泰記能不與本總領事同一愼重于緊要之賬據耶

THE TAOTAI.

Have you not Woo's letter saying why he did not pay the claim?

THE CONSUL GENERAL.

This claim is not now urged against Woo. It is preferred against Takee.

THE TAOTAI.

Have you no letters of Woo's about it?

THE CONSUL GENERAL.

Probably. But he was your predecessor. His letters must be in your office.

THE TAOTAI.

He left nothing about this matter in the Yâmen.

THE CONSUL GENERAL.

Well I will see what letters I have of his; but they can have no concern in this case. You should remember that if Hill's case against Takee be rejected, he will probably claim against the Government.

THE TAOTAI.

I am willing to abide by the decision of the Arbitrators, and by your opinion stated in the evidence.

之意

馮道臺云本道肯照中人所斷亦肯照　貴總領事所論刻于供詞內心于懷倘熙爾向泰記所索不就吾想其必向國家索償也

西總領事曰且待本總領事一查然其信與是案無涉尚請　貴道留

馮道臺云若論此事吳道臺必無信存案有案可查

西總領事答曰或者有信但貴道係吳道臺之後任如或有信貴署當

馮道臺云然則此事　尊處有吳道臺之信據耶

西總領事答曰此賬非索吳道臺係討泰記之欵

馮道臺云貴總領事處有無吳道臺謂此欵因何不付之信亦無非係斷吳道臺所不應付況今係向楊泰記索欠也

THE CONSUL GENERAL.

The decision of the Arbitrators was on the case as presented against Woo. My memorandum given in the evidence had the same bearing. But I believe that the Government having used the steamer, Hill will have a claim against the Government if his claim be rejected as against Takee. My memorandum has no legal or binding effect. It was written solely for my own information. It was not in any way a finality: I do not now accept the opinion that I expressed in it.

THE TAOTAI.

There must have been a reason why Hill was not paid by Takee.

THE CONSUL GENERAL.

We have gone over that ground. But I will explain it all again. (Here followed a repetition of what Mr. Seward had before said.)

THE TAOTAI.

Here called attention to Mr. Seward's statement on page 32 of the printed case.

THE CONSUL GENERAL.

My remembrance in making that statement, eleven years after the occurrence, proved to be somewhat defective. I was sure that Hill's full claim had not been submitted. I had forgotten that a part had been

記心差悞曾記得十四個月之賬固未交與公正人之手特忘其內
西總領事曰若論此節本總領事係在十一年後所論之言吾知彼時
諭
馮道臺云請　貴總領事查閱供詞內第三十二頁　貴總領事之堂
西總領事曰此言已明白論過即使再宣亦無非同前云云
馮道臺云吾想泰記不付熙爾未始無因
前論辦理矣
以備存查用焉並非以此爲定案之斷語現在本總領事之意不照
口供內本總領事所議本無一定之見此不過本總領事畧記其事
思高橋輪船既爲國家使用若熙爾控泰記不成可以索于國家至
西總領事曰中人所斷係向吳道臺所索之賬本總領事所論與同吾

submitted. I afterward found on reference to documents that I had made a mistake on this point, and handed in the papers showing what had actually been done.

THE TAOTAI.

It is very difficult to decide.

THE CONSUL GENERAL.

Doubtless you have difficulty. To me the case seems clear, but one needs to understand the evidence thoroughly. Perhaps you have not yet balanced it all in your mind. If I had always cases so easy as this one, I should never have any great anxiety in the discharge of my judicial duties.

THE TAOTAI.

Mr. Hill's lawyer placed his case very thoroughly before the Court, but the case of the defence is not clear.

THE CONSUL GENERAL.

There were two lawyers for the defence against one for the prosecution. You know of the skill of the defending lawyer, (He had recently employed him). You may judge by what you see in the evidence and arguments of the real merits of the case.

貴道曾經聘用諒早洞悉　貴道如能識明原被人証供詞及兩造
西總領事曰被告之狀師有兩人原告狀師只一人被告狀師之才具
被告之事具明也
馮道臺云熙爾之訟師將原告案情陳論明晰而被告之狀師則未將
白則本總領事不慮其斷案之難
于此案或未比較其案情耳若敝署所審之案倘能如此案同一明
判斷蓋凡斷案必先察明兩造人証所供之虛實爲定也想　貴道
西總領事曰在　貴道却是難定若在本總領事以爲此案甚明不難
馮道臺云然而此案難定
此賬發出以歸核實
有四個月之賬曾經交出嗣後查案果有交出四個月之事故即將

THE TAOTAI.

How shall we decide the case? Shall we meet again?

THE CONSUL GENERAL.

Yes, we ought to meet daily until we have decided it.

THE TAOTAI.

Cannot the parties settle it?

THE CONSUL GENERAL.

Mr. Hill has been trying for twelve years. There is no hope in that direction.

THE TAOTAI.

Can you say what your opinion in the matter is? If I agree I will submit it to the parties, and they can decide whether they will pay or appeal to the Tsung li Yamen.

THE CONSUL GENERAL.

Cannot you enforce a judgment if you give one?

THE TAOTAI.

I think not.

THE CONSUL GENERAL.

Then we are in the same position as in Woo's Arbitration matter.

西總領事曰彼此會斷吳道臺之事事同一律前公正人所斷而吳道
馮道臺云想當不能
西總領事曰若會同商斷一案能強其原被遵斷否
總理衙門核示可也
見相同當飭知原被兩造自行定奪或遵照所斷或聽其上控于
馮道臺云在　尊意欲何斷法可否請　貴總領事示知倘與本道意
西總領事曰熙爾與被告已相商十二年仍無就緒此一層無望
馮道臺云或令其原被兩造自行理直可否
西總領事曰可應當逐日商斷總以判定而後止
馮道臺云此案究竟如何定法可否再行會商定斷
狀師之辯論當知此案情形

The Arbitrators decided, but Woo was not willing to accept the award. So here we sit as a Court, and it remains for the defendant to say whether he will abide by the judgement. How am I to understand this?

THE TAOTAI.

The parties will abide by the judgment, or appeal to higher authorities.

THE CONSUL GENERAL.

But the Treaty says that you and I are to decide cases between Chinese and Americans. We cannot be simply advisers of the parties. We form a Court by decision of which the parties must abide.

THE TAOTAI.

Shen Taotai should have decided this case. He went away and it devolves upon me—it is unpleasant. If I decide against Takee's estate the heir may not pay. If I decide against Hill, you will not be satisfied. Did not Shen write to you before he left that the case was finished?

THE CONSUL GENERAL.

No, he did not so write. And if he did it would make no difference. The case was not to be disposed of without consultation. But had we not better now take a couple of days for consideration. You have now more knowledge of the business than when you came to me. If you

商斷方可茲容待數日請　貴道細爲思之今　貴道較初略知明
西總領事曰並無此等信來渠即使有信亦不能作準蓋此案須會同
不服沈前道臨卸任時曾有信致　貴總領事謂此案了結否
無昧若勒令泰記但恐不願付銀如勒令照爾而　貴總領事心有
馮道臺云此案沈前道應當斷定乃渠已卸事今本道擔此責任殊屬
定則必欲其兩造遵斷也
訊斷豈有勸行之理今　貴道與本總領事奉命既爲讞官一經斷
西總領事曰查和約載明中美兩國有交涉之案兩國官員理欲會同
馮道臺云原被如不照斷便可上詳
領事未之知也
臺不照斷今吾等既爲斷案之官尚不知被告能允斷與否則本總

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THE CONSUL GENERAL.

No, he did not so write. And if he did it would make no difference. The case was not to be disposed of without consultation. But had we not better now take a couple of days for consideration. You have now more knowledge of the business than when you came to me. If you

商斷方可茲容待數日請　貴道細爲思之今　貴道較初略知明西總領事曰並無此等信來渠即使有信亦不能作準蓋此案須會同不服沈前道臨卸任時曾有信致　貴總領事謂此案了結否無味若勒令泰記但恐不願付銀如勒令照爾而　貴總領事心有馮道臺云此案沈前道應當斷定乃渠已卸事今本道擔此責任殊屬定則必欲其兩造遵斷也

訊斷豈有勸行之理今　貴道與本總領事奉命既爲讞官一經斷西總領事曰查和約載明中美兩國有交涉之案兩國官員理欲會同馮道臺云原被如不照斷便可上詳

領事未之知也

臺不照斷今吾等既爲斷案之官尚不知被告能允斷與否則本總

choose to meet me on Monday, I will be glad to enter upon the business with a view to arrive at a settlement.

THE TAOTAI.

But there is no Charter Party.

THE CONSUL GENERAL.

A man and woman live together and have children, would you bother to ask whether they were married according to the rites. The "Korjeor" was used, as you acknowledge; Charter party or no Charter party there is an obligation to pay. Who will pay—Takee's Estate, or the Government?

THE TAOTAI.

There must have been a reason why Takee did not pay.

THE CONSUL GENERAL.

Well perhaps he liked money and did not care to part with it. Will you please take the facts into consideration and see if you can find any other reason?

THE TAOTAI.

Cannot the parties settle the business? I will advise Takee's people to pay something.

THE CONSUL GENERAL.

You might see Takee's people before we meet. There is no use in talking of compromise without a distinct offer from Takee's people.

付熙爾幾何數目即是令其私行調處仍屬無濟
西總領事曰兩日之內　貴道宜先向泰記一商如泰記自不出面允
馮道臺云可否令其原被自行調處本道可令泰記付點銀兩與熙爾
西總領事曰或係泰記吝財不舍去耳請查案細閱便知緣故
馮道臺云泰記不付想有緣故
付請就此一定
則不論有無租船之據自當付其租價或應泰記照付抑係國家當
其當日是否憑媒之名正嫁娶乎高橋輪船　貴道已經認說用過
西總領事曰譬如一男一女同室一處已產有子女而尤欲勞心追問
馮道臺云無租船憑據
細如禮拜一　貴道有暇再行商斷可也

THE TAOTAI.

I should dislike to decide the case. It is a great responsibility.

THE CONSUL GENERAL.

But we are put here to do work. We are agents who cannot shirk responsibility. I decide cases upon the merits and fear only to be wrong. We have only to look to what is just. Your Government will approve a right decision. What would it think of a wrong decision?

THE TAOTAI.

If Mr. Hill will not recede at all, and Takee will not pay all, what is to be done?

THE CONSUL GENERAL.

Our business is to decide the case, not to inquire whether one or the other party will recede.

THE TAOTAI.

I do not know whether Takee can pay so much.

THE CONSUL GENERAL.

That is not our business now. We have to decide the question of liability.

THE TAOTAI.

It is difficult to enforce judgements, when the cases are so difficult. This is a difficult case.

馮道臺云斷如此不易之案難強其必欲遵斷此案實係難斷

西總領事曰現皆非吾等之事惟是斷其應付否

馮道臺云不知泰記有無銀錢能照數全付否

西總領事曰我等是斷案的名分焉能問其肯讓與否

爲也

馮道臺云如熙爾不肯減讓租價或泰記不願照數全付則本道莫可

知國家當如何處也

此案只須斷得公允若果允洽諒國家亦無可批駁倘不平允則未

其案之干証確實但慮其誤斷不平耳今　貴道與本總領事會斷

西總領事曰吾等爲官辦公焉能避其責任在本總領事判案惟有核

馮道臺云此案本道不願定斷責任甚重

THE CONSUL GENERAL.

Shall we meet again Monday or Tuesday?

THE TAOTAI.

We may meet but we shall not do anything but talk.

THE CONSUL GENERAL.

I am willing to talk so long as any points need elucidation. But if you have decided the case, it will be as well to state your conclusions. There will be no use for farther discussion.

THE TAOTAI.

I may see Takee and he may say that he does not fear Hill. Let Hill go to Peking. What can I do?

THE CONSUL GENERAL.

Well I will go on Wednesday at 2.30 to see you. We are bound as a part of our official duties to give a decision.

THE TAOTAI.

Wednesday will do.

馮道臺云當如約以待
之責成勢欲一斷
西總領事曰且俟禮拜三兩點半鐘至　貴署但　貴道與本總領事
欲晉京上控亦當聽其去告則本道有何爲之
馮道臺云本道可以與泰記會面若泰記竟言不怕熙爾行甚麽事即
奉談如　貴道胸中已有成見當請示知即無庸費言矣
西總領事曰若　貴道于此案尚有不明悉之處本總領事可以詳細
馮道臺云彼此可以再斷但無非徒多談論而已未必能作道理
西總領事曰或俟禮拜一二再會同商斷可乎

MEMORANDUM

Of a second conversation between Mr. SEWARD U. S. CONSUL-GENERAL and FENG TAOTAI, upon their second meeting to decide the case of

HILL *versus* TA KEE.

SHANGHAI, *July* 1*st*, 1875.

CONSUL GENERAL.

Has the Taotai any further light upon the matter?

TAOTAI.

I have found correspondence about the subject to Hanbury and Cunningham. Your letter to Woo and Woo's answer: and a letter of Woo's saying that certain parts of the award should be paid and parts not. There are items referring to the "Korjeor." A letter of Hunt and Co. for 895 Taels, which were not to be paid. 160 Taels for making awning and sails, also not to be paid, and charter money, 12,000 dollars for four months.

THE CONSUL GENERAL.

Were these allowed by the Arbitrators?

TAOTAI.

No.

CONSUL GENERAL.

Did you find any which the arbitrators thought should be allowed?

西總領事曰中人有斷應付之賬　貴道曾檢得否

馮道臺云不

西總領事云以上數欵中人係斷要付乎

萬二千兩皆不應付者

一桁記銀八百九十五兩一做天篷銀二百六十兩一租船價銀一

內應付者有之不應付者亦有之並有幾欵係牽及高橋輪船之賬

致吳道臺及吳道臺回信此外又有吳道臺一信內稱中人所斷欵

馮道臺云本道檢閱致金能亨漢璧禮二人往來之信並　貴總領事

西總領事曰此案　貴道曾明悉否

案情由

江海關道馮
美總領事西

于五月二十八日第二次會同商斷已審之熙爾控楊泰記一

TAOTAI.

None.

CONSUL GENERAL.

The arbitrators did allow some claims?

TAOTAI.

Yes, I find an amount of Tls. $178\frac{72}{100}$ for wages of crew, $655 for articles furnished, and also $2137. for articles used.

CONSUL GENERAL.

Did Woo pay these sums?

TAOTAI.

The Taotai paid you, and you, I suppose, paid the claimants.

CONSUL GENERAL.

The fact of such payments being made indicates that the steamer was used.

TAOTAI.

Yes.

CONSUL GENERAL.

Have you found that anything was paid on the Charter of the steamer?

TAOTAI.

I am not Woo or Takee, so I cannot say that nothing was paid.

馮道臺云本道非吳道臺亦非楊泰記不能說他是未曾付過租價一
西總領事曰　貴道曾檢出是付過租船價銀之據
馮道臺云然
西總領事曰就所付之此欵而論顯知高橋輪船實係用的
馮道臺云此欵吳道臺已付交　尊處想　貴總領事當付還債戶矣
西總領事曰此三欵吳道臺付否

賬

又六百五十五元係購物之賬又二千一百三十七元亦係買物之
馮道臺云是曾檢有一賬計銀一百七十八兩七錢二分係水手工錢
西總領事曰中人所斷尚有幾欵應付之賬
馮道臺云無

CONSUL GENERAL.

That you did not find payments would not show that nothing was paid.

TAOTAI.

I have only the papers spoken of. If the claim for the four months was not allowable then, it cannot be right now.

CONSUL GENERAL.

Of course you understand that the case before the Arbitrators was that of the claim preferred against Woo, and not Takee. The Arbitrators had nothing to do with that.

TAOTAI.

Was Takee then living? If so, why was he not requested to pay?

CONSUL GENERAL.

Before answering this I would call the Taotai's attention to paragraph 6th of the Petition. The Charter was of the steamer. The Charterer was to find the crew &c. himself.

TAOTAI.

Was Hill and Hunt & Co., the same?

馮道臺云柝記與熙爾是否一人
用此隻輪船其船上需用工人係泰記自主雇用
西總領事曰此言我且不待回答請先看原告之稟詞第六條內稱租
馮道臺云彼時泰記尚在世否如在因何不向泰記索償
記也其泰記之賬與中人無涉
西總領事曰現在貴道應知當日中人所斷係討吳道臺之賬非討泰
既經斷不應付而今日亦不應付也
馮道臺云本道所有檢得之賬據適纔已經道過若四個月之賬當日
付之証
西總領事曰既未檢得付過租價之據然亦未能憑此即作爲實在未
語

CONSUL GENERAL.

The hong name of Hill and partners was Hunt & Co.

TAOTAI.

I take the correspondence of Woo as proof of what was right, and of what took place.

CONSUL GENERAL.

The correspondence refers to the claims for four months. Do you find any record about the other ten months during which the steamer was used?

TAOTAI.

No. If used for fourteen months, why did Hill claim for four months only?

CONSUL GENERAL.

The evidence shows why. He put in his claim at Takee's request. If he had received for four months, he could not now bring forward that part of his claim.

TAOTAI.

If the parties were here this might be shown. But in their absence I must accept Woo's declarations.

已去世只能憑吳道臺之信爲証

馮道臺云若吳道臺及楊泰記二人現尚在日方可明白今伊二人既

租矣

月之賬若當日已經收過四個月之租則現在不能再索此四個月

西總領事曰供証內業已聲明此故矣緣係泰記勸令熙爾索討四個

之價

馮道臺云非也若此船係用有十四個月當時熙爾何以只討四個月

尙有用過十個月輪船之事據否

西總領事曰吳道臺之信係指四個月之賬而言　貴道曾檢得言及

馮道臺云此事當日有無或錯與不錯總以吳道臺之信爲憑

西總領事曰柝記乃係行名尙有別人同熙爾合開者也

CONSUL GENERAL.

Woo writes about the four months. The steamer was used as you know for a long time—actually fourteen months. What do you say about the other ten months?

TAOTAI.

Takee must have paid.

CONSUL GENERAL.

If he had paid he would have evidence, receipts &c.

TAOTAI.

I must abide by Woo's record.

CONSUL GENERAL.

It only deals with a part of the claim, and that part against the Government.

TAOTAI.

Takee was acting for the Government in chartering the "Korjeor." The record refers only to the four months. The fourteen months must be all trumped up. The trumping up of a claim for fourteen months discredits the whole claim.

THE CONSUL GENERAL.

Do you doubt that the steamer was used for 4 months?

西總領事曰高橋輪船所用之四個月　貴道尚有疑乎
矣
于十四個月之賬必是虛言若十四個月果屬子虛則他事皆屬虛
馮道臺云泰記租高橋輪船係代國家經辦所書之信只言四個月至
者也
西總領事曰吳道臺所書之信係指四個月而言況其係向國家所討
馮道臺云本道只可憑吳道臺所書之信
西總領事曰泰記如已付訖當有收據作憑
馮道臺云諒泰記總付過了
用已久共有十四個月尚有十個月　貴道當若何也
西總領事曰吳道臺之信係指四個月而言高橋輪船　貴道明知使

TAOTAI.

I go only by the record.

CONSUL GENERAL.

If you doubt that the steamer was used there is no good in holding further argument. The evidence is clear on this point. Who is responsible may be a question, but the fact of the use of the steamer is proven beyond doubt.

TAOTAI.

If used for fourteen months why was not the claim presented to the arbitrators?

CONSUL GENERAL.

The 14 months were running on, when the claim for 4 months was put in before the first Arbitrators. That Arbitration met in March or April 1863. I put in the 4 months claim before the second Arbitrators later on by mistake. Had I known of the whole claim I should have presented all probably or none.

TAOTAI.

The only way to reach a conclusion in this business is to think a great deal about it.

馮道臺云若要明此事須得多想想

次中人本係誤交

多少一交則均交矣在後將此四個月之賬經本總領事交與第二

查第一次公斷時係在同治二年將屆二月之間當時若知其賬有

西總領事曰四個月之賬交與第一次中人之時十四個月尚未滿期

馮道臺云若此船是用得十四個月此賬何以不統交中人公斷

全是毫無可疑之處

應何人擔承尚可議論但高橋輪船實係用過之憑據均已備質完

矣然而及此一層輪船實係用過已于供証內顯明或曰其責任究

西總領事曰若　貴道尚在有疑于此船是否用過彼此則無須議論

馮道臺云本道惟有照所書之信爲憑

CONSUL GENERAL.

And you are doing so?

TAOTAI.

The only proof is the record left by Woo.

CONSUL GENERAL.

Does not the record left by Woo which shows a claim for 4 months, and that it was not paid, and the fact, which you know, that the steamer was used a long time, support greatly Mr. Hill's present case as shown in the Minutes &c. of the Court before us?

TAOTAI.

I have only to look at the record made by Woo.

CONSUL GENERAL.

Woo had never anything to do with the claim as presented against Takee.

TAOTAI.

You have many records in your office about it.

CONSUL GENERAL.

I have many papers, and was here at the time of the occurrence. I know of nothing to invalidate Mr. Hill's claim.

TAOTAI.

There is no use to talk about the 14 months, until the 4 months

馮道臺云四個月之賬尙不能定何況十四個月之賬是更無庸論矣
所索之案內有一處謂可疑乎
西總領事曰日本署是有多件賬據當日本總領事在滬但不知于熙爾
馮道臺云　貴署還有多少賬據于此事有涉耶
西總領事曰現在此案係向泰記索討與吳道臺本不相干
馮道臺云本道祇能看吳道臺所書之信爲是也
之供証相符耶
船用的常久諸如此類豈不要極力相助于熙爾之案且又與已審
西總領事曰所書之信指明四個月之賬且而未付況　貴道已知此
馮道臺云可憑之據只有吳道臺所書之信
西總領事曰現在　貴道是欲多想耶

is decided. There is danger that we may get excited and red in the face.

CONSUL GENERAL.

No, we must not do that. We can discuss the case in a quiet sensible way.

TAOTAI.

You know all about this case. You had better give judgment.

CONSUL GENERAL.

I cannot enforce judgment as against a Chinese, as you cannot against an American. It is well for me to aid you in this case, and for you to aid me when Americans are defendants. But it is your part to give the judgment. If you decide as I think right, I will agree with you.

TAOTAI.

I know that it is my business to give the judgment. If I give it, I must give it on the Woo record. I cannot take fabricated testimony.

CONSUL GENERAL.

I hope you will not believe that I could knowingly urge a fabricated case upon you.

道之前而欲追斷知其作串之案乎

西總領事曰但望　貴道不可見介此意試思本總領事能否于　貴書之意而未能以串証之供爲憑

馮道臺云吾知此案係本道應所斷也然就本道而斷當照吳道臺所斷倘　尊斷與鄙見相合自當允遵

爲被告之案而　貴道與我襄辦亦同也今此案係　貴道分內應斷美國人之案相同惟此案本總領事相助爲理則可如有美國人

西總領事曰我不能定亦不能勒令華人遵照所斷即如　貴道不能

馮道臺云　貴總領事既明此案請　貴總領事定斷可也

西總領事曰不彼此無須如此惟有照例奪情商辦也

特恐彼此面赤見氣耳

TAOTAI.

What is written is evidence. Woo's record is written. The rest is all oral statement and does not deserve credence.

CONSUL GENERAL.

It cannot be a good thing to leave this business in such shape that there may be doubt of the willingness of the Chinese Government or its officials to do justice to a foreigner who rendered to the Government a service. I speak now in view of your statement that Takee in the "Korjeor" matter was acting for the Government.

TAOTAI.

You said this claim ought not to be paid.

CONSUL GENERAL.

No. The Arbitrators decided on a small part which was presented in error. Hill was never before them. They were not dealing with the Takee claim.

TAOTAI.

If I am to decide, I must abide by what the Arbitrators said.

CONSUL GENERAL.

Are you prepared to say that Mr. Hill has no claim against Takee?

(The Taotai evaded giving an answer on this point for a long time, talking over many points which had already been discussed.)

馮道臺乃久未答惟仍贅已述之言

西總領事曰現在還能斷照爾無甚賬可以向泰記索討之言耶

馮道臺云若要本道判斷只能照中人所斷定讞

爾未曾親至中人處會晤一言而中人亦未公斷討泰記之賬

西總領事曰非也緣中人所斷四個月之賬原係本總領事誤交且照

馮道臺云　貴總領事曾議此案不應付

貴道前謂泰記經租高橋輪船係代國家辦事故有此論焉

秉公代一外國人辦理曾爲國家出力之案殊不雅觀此一言也蓋

西總領事曰此案懸宕如此俾人見責于中國家或曰中國官憲不肯

不足爲証

馮道臺云所書者係憑據本道所說卽所書者也此外皆係口述之言

CONSUL GENERAL.

It will be best for us to make an end of our talk, if there are no points to be elucidated. Do you then decide that there is no claim against Takee?

TAOTAI.

Did you at the time know that the steamer was being used for 14 months? (Not waiting for reply) You and Woo and Takee and Hill were here. The claim was not paid. I find now a record from Woo which relates only to four months.

CONSUL GENERAL.

I knew that the steamer was in the use of the Government, which Captain she had, and I presume that I knew that she was being used all the while.

Would you like any further conversation or will you give your judgment without more discussion?

TAOTAI.

I will see you at your office on Tuesday the 6th instant at 2,30. o'clock.

CONSUL GENERAL.

I will await your arrival.

西總領事曰屆期恭候

馮道臺云俟禮拜二即六月初四日兩點半鐘再至　貴署商斷請就此定斷

識該船船主并記得此船用日甚久現在　貴道尚有欲說之言否

西總領事曰當日本總領事在滬曉得高橋輪船國家尚在使用且認道檢閱吳道臺之信僅言四個月之欵

貴總領事是否得悉高橋輪船用至十四個月該價是否未付惟本

馮道臺云當日　貴總領事與吳道臺及楊泰記熙爾等均尚在滬而

貴道若無別語顧問而此時尚能斷熙爾無賬可向泰記索討耶

西總領事又曰此等不要之言已經反覆辯論請勿須贅矣總之現在

MEMORANDUM

Of a third conversation between Mr. SEWARD U. S. CONSUL-GENERAL and FENG TAOTAI, upon their third meeting to decide the case of

HILL *versus* TA KEE.

SHANGHAI, *July 6th*, 1875.

THE CONSUL GENERAL.

I hope that you are now prepared to give judgment in favor of Mr Hill.

TAOTAI.

Can you tell me what I should do?

CONSUL GENERAL.

You hardly need advice from me.

TAOTAI.

What can you suggest?

CONSUL GENERAL.

It is our business to examine the case and give judgment, and not to try to make a compromise. We ought first to inquire whether Takee is responsible.

TAOTAI.

Takee is dead now and the paper of submission to arbitration—and the Award settled the affair. The arrangement which you made with the Taotai Woo should be considered to close the whole business. If you do not consider this a settlement I can write to the Viceroy and place the matter before the Tsung li Yâmen. I came to you to seek a settlement by friendly recourse but not to give judgment upon the case.

理衙門辦理今本道係來會商非專爲定案而來且泰記一面延有
罷論倘　貴總領事現在不以爲然惟有詳請通商大臣咨送　總
已完結況以　貴總領事與吳道臺互立合同而論此事亦當作爲
馮道臺曰泰記死矣此案一賬前交公正人斷過照所斷判語此事應
冀圖遷就了案第一先問其責成是否在于泰記
西總領事云按彼此名分應察斷是案供証定讞不能以思投別法而
馮道臺曰或請　貴總領事指示一二
西總領事云無須本總領事代言　貴道當主斷可也
馮道臺曰請　貴總領事教我如何斷法
西總領事云望　貴道將此案斷定准如熙爾所稟
江海關道馮　于六月初四日第三次會斷已審之熙爾控楊泰記一案
美總領事西

Takee's people say they have lawyers, and the Mixed Court Magistrate will write to them to urge a friendly settlement.

CONSUL GENERAL.

This case is one for judicial action and not political negotiation. A suit has been entered and the evidence heard. It remains to give judgment.

TAOTAI.

When a judge passes judgment, there is an appeal. My decision would be only the judgment of one. I don't understand the case as presented by the Defendant. Most of my knowledge of the case I have got from you.

CONSUL GENERAL.

I am quite prepared to admit that an appeal may be taken from you to the Supreme Government. We are prepared to go before the Supreme Government to argue the case if your judgment be unsatisfactory. The first business is to hear a case, the next to decide it.

TAOTAI.

I do not understand the evidence of the defense.

CONSUL GENERAL.

The record presented to you by me has been approved by the Defendants lawyers, as well as by the Plaintiff's lawyers. The case is the same

過無訛此案既經兩造自認所供是實以及兩狀師復核其辯論亦
西總領事云所呈　貴道之全案供証刻本曾經原被及兩造狀師閱
馮道臺曰被告供証本道不解
合亦可上詳總之凡有訟案先審而後斷也
西總領事云我知斷定之後原可上控若此案　貴道所斷與鄙意不
領事討論而稍知梗概也
且被告一面之辨論我並不解現就本道所畧知者尚賴與　貴總
馮道臺曰然而斷定之案仍可上控縱使本道斷定不過一人之成見
告而又經會訊取有人証供詞祇能待斷而已
西總領事云此案勢欲官斷非令其自行理明之事此案既經有人控
狀師會審委員可以函知狀師令其理清

as if parties submitted to you an agreed statement of facts and arguments, and asked for judgment.

TAOTAI.

Before I could give judgment I should have to hear the case myself.

CONSUL GENERAL.

This is not necessary when you have before you an agreed statement of the case with arguments &c. It was a tedious work to hear the case. I do not want to have to go through such a work again. You have no responsibility excepting to decide upon an agreed statement.

TAOTAI.

If I had examined the case, I could give judgment upon it as presented.

CONSUL GENERAL.

It is not competent for you to object to the record, the Defendant by his Counsel having approved it.

TAOTAI.

The lawyers for the defense have not admitted that the money should be paid.

CONSUL GENERAL.

No. It is your business to decide upon that point.

西總領事云他是未認然其應付與否要在　貴道之分內所斷也

馮道臺曰被告狀師未嘗自認應付此欵之事

諉不准

西總領事云被告及渠所延之狀師自認供招屬實則　貴道不能推

馮道臺曰此案若經本道親訊或可按照訊供判斷

也

手況且現在已有兩造承認之供是實今　貴道照斷亦無甚關繫

貴道親訊且此案訊問成供頗費艱難而本總領事亦不願再行費

西總領事云　貴道既有原被承認之供及兩訟事上呈之辯論無煩

馮道臺曰若要我斷須本道親審方好擬斷

無錯誤故送請　貴道核斷

TAOTAI.

I thought at first that something should be paid, but on reading the correspondence between you and the Taotai Woo I have thought that nothing should be paid.

CONSUL GENERAL.

Do you decide the case against Hill?

TAOTAI.

I decline to give judgment.

CONSUL GENERAL.

Very well, then it is useless for us to talk longer.

TAOTAI.

The reason why I decline to give judgment is that a claim is made for 14 months, when a decision has before been given upon 4 months claimed for.

CONSUL GENERAL.

I do not wish to talk longer if you have taken up a final position, against the Petitioner. Please say whether you have finished the case.

TAOTAI.

I want to think more about the matter, privately.

CONSUL GENERAL.

What do you mean by privately?

西總領事云何以爲之私下想想

馮道臺曰我欲私下想想

言請將　尊意示明是否以此案完結耶

西總領事云如　貴道心中已定不准原告所控則本總領事勿再多業已斷過

馮道臺曰本道不肯斷者因爲現在索討十四個月前番所討四個月

西總領事答曰好若果如是彼此則無庸議矣

馮道臺曰此案本道不斷

西總領事云然則　貴道擬定熙爾不應收此價耶

道臺往來之信則不應付也

馮道臺曰在本道初擬本欲令其付點但嗣後查閱　貴總領事與吳

TAOTAI.

I want to see the Defendant to learn whether a way of settlement can be arrived at. I would see the Defendant out of good will to you, with whom I have long had friendly relations.

CONSUL GENERAL.

Very well. I leave for Japan to night. I shall return in 20 days. If then you are still unable to give judgment I can only send the case to Peking.

TAOTAI.

I have finally concluded not to give judgment. You may send up the case saying that in your opinion Takee ought to pay, and that I say that Takee ought not to pay.

CONSUL GENERAL.

Very well.

TAOTAI.

I should have been pleased to agree with you.

CONSUL GENERAL.

I very much regret that we cannot agree.

西總領事云彼此意見不合最難爲情

馮道臺曰本道如能與　尊意相合亦所願幸

西總領事曰好

聲明于內

將　貴總領事之意以爲泰記應付而本道之意泰記不應付等語

馮道臺曰但本道已定見不斷此案　貴總領事可以詳送北京並可

時如　貴道再不能定惟有詳送北京矣

西總領事答曰好今晚本總領事欲動身前往東洋約二十天可回彼

變通辦理也

以願勸泰記者緣本道與　貴總領事素稱敦好故看尊面而因此

馮道臺曰本道欲與泰記面爲試商勸其在外自行調處明白本道所

TAOTAI.

Can you write out for me the arguments which I ought to use with Takee?

CONSUL GENERAL.

I have no faith that any good would result. Besides, the whole case is in the printed book. Well then this is our last conversation on the subject. Having completed the task, with you my work is done, excepting that I have to send the case up.

TAOTAI.

It would be more than my head is worth to sign a judgment requiring Takee to pay.

CONSUL GENERAL.

Why do you say this?

TAOTAI.

Because the facts would not warrant a judgment.

CONSUL GENERAL.

You have your opinion, I have mine. Higher authorities must now decide.

TAOTAI.

If above it is decided that a million is to be paid, I do not care.

NOTE.

The Taotai here repeated again his reliance upon the statement of

應付的

馮道臺又云此時本道只能以吳道臺之信爲憑內稱四個月租價不

馮道臺曰雖上憲斷付一百萬亦不干本道之事

西總領事云各思其是現在祇有詳請上憲核斷

馮道臺曰照此案不足以斷令泰記付銀

西總領事云此言何故

馮道臺曰若本道斷令泰記付銀竊恐吾頭難保

事與　貴道談論如此地步此外亦無可爲也只得詳送上憲矣

均已刋入全案供証刻本之內惟今日會議當作末後之局本總領

西總領事云　貴道與泰記有甚良法可施吾不之信若論此案情由

馮道臺云請　貴總領事代本道寫出當用何言勸令泰記之處

Woo, Taotai, found in the Taotai's Yamen by the present incumbent, to the effect that the 4 months charter ought not to be paid.

To this the Consul General responded with a show of warmth, that he must protest against having Woo, Taotai, quoted to him; Woo had agreed with the Consul General to refer certain disputed claims to Arbitration; the Award of the Arbitrators was made and Woo threw a part of the Award overboard. Could a man who had done this be quoted to the Consul General as worthy of credence as against all the witnesses quoted by the Consul General?

The Taotai denied the fact, and the Consul General proved it from papers which had been brought by the Taotai.

This fact appeared to sensibly break down the Taotai's confidence in the views which he put forward. And it was finally arranged that he would meet the Consul General for further consultation on the latter's return from Japan.

臺乃退云俟西總領事東洋回來再行會商可耳

西總領事旋將　馮道臺帶來吳道臺之賬指實係果有之事　馮道

馮道臺曰吳道臺未嘗如此之行

棄去不欲信乎

爲之人猶欲使我聽信其所書之信爲憑而反將多人之供証概行

斷迨經公正人斷定而吳道臺不照其所斷竟將幾欵置之此等行

憎厭從前吳道臺與本總領事互立合同議有幾賬交與公正人會

西總領事云　貴道動輒以吳道臺之信屢觸于本總領事之前未免

MEMORANDUM

Of a Fourth conversation between George F. SEWARD, Esqr. U. S. CONSUL-GENERAL and FENG TAOTAI, in regard to the case of

HILL *versus* TA KEE.

SHANGHAI, *August 2nd*, 1875.

Carl Kreyer, Interpreter. (At the previous interviews Dr. Yates translated.)

THE CONSUL GENERAL.

Have you any new light on the subject?

TAOTAI.

I regret that I have not been able to change my previously expressed opinion.

CONSUL GENERAL.

I have heard that you have some new evidence. Is this the case? I have no desire to press an unjust claim.

TAOTAI.

In the books of Account there are entries showing payment for the Charter of the "Korjeor" for four months. The payment is put down as made to Geekee. ("Thomas Hunt & Co.," a firm in which Mr. Hill was partner.)

CONSUL GENERAL.

What books of Account are they?

TAOTAI.

Not books of Account—but books of correspondence of Ying Taotai. The statement is made by Woo Taotai, to Ying Taotai.

CONSUL GENERAL.

Ying was a Commissioner to look into claims against Woo, appointed

西總領事云從前應道臺奉派來滬查辦吳道臺經手之賬蓋因美國
馮道臺曰非賬簿係應道臺之文卷簿有吳道臺致應道臺之信
西總領事云這是甚麼賬簿
爾的股份
馮道臺曰查賬簿內有付過四個月租銀係付交旂記洋行該行有熙
不公之案
西總領事云吾聞是案　貴道查得信據果爾則本總領事不欲追斷
馮道臺曰本道看起不能更改我已說之言
西總領事云　貴道曾查明否
楷理繙譯第一二三次係美署晏瑪太繙譯合併附明
江海關道馮　七月初二日第四次會斷熙爾控楊泰記一案此次係道署金
美總領事西

by the Government at Mr. Burlingame's request. We had some Meetings, but as he had no powers to judge, but only to investigate, it was useless for me to deal with him. I had great trouble to secure even two or three interviews with him.

TAOTAI.

I was not quite sure of the nature of his intervention.

CONSUL GENERAL.

Is Woo's letter accompanied by any voucher?

TAOTAI.

It cannot be a forged document.

CONSUL GENERAL.

No; but if there was a payment there should be a voucher.—Do you know the time covered by the payment?

TAOTAI.

The time covered is not stated in Woo's letter.

CONSUL GENERAL.

I ought to say that Woo did not claim before the first or second Arbitrations that any Charter Money had been paid. He denied the charter altogether before the second Arbitrators to my knowledge. And

及第二次公斷之人有付過租銀之語查第二次公斷時本總領事
西總領事云本總領事應告知　貴道從前吳道臺未嘗知照第一次
馮道臺曰吳道臺之信未曾叙出何日起止
于何日起至何日止
西總領事云非也若付過租銀當有收據　貴道知其所付之銀係付
馮道臺曰此信絶非揑造的
西總領事云吳道臺致應道臺之信有無收過租價之據爲証
馮道臺曰本道不明白應道臺曾有此等名分
與應道臺所議仍屬無濟
三次極屬費事惟應道臺無定案之權不過查看而已故本總領事
公使蒲安臣請中國家派員查辦者也本總領事與應道臺會議二

you know that as Woo broke faith with me, I cannot advise you to trust much to his statements.

TAOTAI.

The document exists. If forged, or untrue, why did they not make it for the whole 14 months?

CONSUL GENERAL.

I am sure that I cannot answer you upon that point.

TAOTAI.

The steamer would seem to have been used for 4 months and paid for.

CONSUL GENERAL.

You will remember that witnesses for the Defence said that there was no such steamer.

TAOTAI.

I should be very glad, as a matter of favor to Hill, to ask the Defendant to give him something.

CONSUL GENERAL.

It is not well for you to propose this, because as Judge you then commit yourself to the proposition that he has a claim. On the other hand, I am not the Agent of Hill, but acting in an official capacity, and with

斷案若以適纔之言是似又認明熙爾索欠之欵係有因焉即如本
西總領事云在本總領事以爲　貴道此言似不相宜蓋　貴道理欲
馮道臺曰本道肯爲要好欲勸令被告送點與熙爾
船之名等語
西總領事云　貴道不要忘却被告一面人証之供據稱並無高橋輪
馮道臺曰高橋輪船照本道看起用過四個月付過四個月租價
西總領事云這個我說不來
馮道臺曰此信尙在若係揑造爲何不言討十四個月之租
也
事之前背賴已定之言所以請　貴道不得以吳道臺之信爲可靠
親知吳道臺不肯認付此一欵賬目　貴道可見吳道臺于本總領

so much of the judicial quality attaching to my action that I desire to proceed within strict lines.

TAOTAI.

My action in this respect would conform to Chinese usages, and would work no committal of my judgment.

CONSUL GENERAL.

I do not believe that there is anything which the Defendants would offer that would be accepted by Mr. Hill.

TAOTAI.

I do not believe that you will gain anything by appealing.

CONSUL GENERAL.

I cannot say. My part of the business will have been completed when I send the record up.

It here appeared that the letter of the Taotai Woo indicated that a claim had been handed in, and rejected, not paid. The Interpreter had misunderstood the Taotai.

CONSUL GENERAL.

Then we stand just as we did before. The letter referred to entirely tallies with Hill's evidence that nothing has been paid. It will be difficult to say hereafter that anything has been paid.

正與相符今此之後則難說其付過租價之語

西總領事云如此則彼此仍如前議矣查吳道臺之信核之熙爾所稟但此欵實係删去未付所有前云之言係金繙譯悞聽

馮道臺曰本道查得吳道臺之信內載熙爾有一賬係討四個月租價盡厥職耳

西總領事云其有益與否吾亦不知擬將此案全卷詳送　上憲者以

馮道臺曰吾亦不信案詳　上憲即有益處

西總領事云吾不信熙爾肯納被告有甚允送之處

馮道臺曰本道所行者係按中國例辦理與吾斷案一層無甚關節是以只能行正直之路而不能稍有偏向也

總領事一面亦非代熙爾出心辦事乃在此職為問官兼按察之任

TAOTAI.

I think the best thing is to give judgment against Hill.

CONSUL GENERAL.

If you have entirely decided the matter in your mind, will you send in your judgment in a formal letter?

TAOTAI.

I will send you the letter of Woo at once. In about a week I will send the judgment. You must not impute a wrong motive to me.

CONSUL GENERAL.

That would be foreign to my practice and feeling.—I do not like to have wrong motives imputed to me and I do not inconsiderately impute them to others. Can you not send me your judgment at an earlier moment?

TAOTAI.

Not readily. I shall need to consult with Mr. Drummond. (one of the Defendant's Counsel.)

CONSUL GENERAL.

I ought to say to you that in America a Judge could not be justified who, after a judicial hearing, should consult the Counsel for either party separately. But if you wish to do so, I shall not raise any objection. I prefer to avoid an apppearance of a fear of any scrutiny that you can give the case.

TAOTAI.

It would not be against Chinese ideas for me to consult either party to a case after having heard the case in Court.

馮道臺曰按中國之例審案之後不論其原被一面均可審問我亦不阻難悉聽　貴道作何窮究本總領事亦不懼也之後無論原告被告一面之狀師不得與其商量倘　貴道欲行而西總領事云本總領事應告知　貴道美國之例問官一經將案審定馮道臺曰未便早送欲與被告狀師晤商不見怪于人惟望　貴道可否早將斷語送下西總領事云我無此等規矩但亦不欲人之有怪于我而我如無故亦　貴總領事幸勿怪我有甚偏惡之意

馮道臺曰吳道臺之信即可送上惟本道所判之斷語俟七八日送來西總領事云倘　貴道心中已定見如是請將斷語書出馮道臺曰吾想目前最妙斷定不准熙爾所控

CONSUL GENERAL.

I have stated the western feeling on this point, but shall leave you entirely free to do as you like.

I wish to say that as your judgment is unsatisfactory to me, I shall, if Mr. Hill asks me to do so, and he will undoubtedly make the request, send the record to the Minister at Peking, to be brought before the Tsung-li Yâmen, if he shall see fit.

TAOTAI.

The Yâmen has no judicial functions. It will be difficult for it to make itself an appellate Court.

CONSUL GENERAL.

I am sorry to hear you say this.

This substantially closed the interview.

西總領事云本總領事懶聽此言從此止議矣

馮道臺曰總理衙門並無斷案之權所以難于變通准收上控之案

本國　駐京大臣咨送總理衙門准其照爾上控

言奉申倘　貴道所斷與吾意不合或照爾有求于我則必欲詳請

西總領事云我已說過原係外國之例今聽　貴道之便辦理然有一

FENG TAOTAI

to U. S. CONSUL GENERAL.

I received you letter of the 18th of the 7th moon (August 18th, 1875.) asking for my judgment in the case HILL versus YANG TA-KEE.

This case had been heard in the Mixed Court by SHEN TAOTAI who forwarded to you his judgment in the case. When I assumed the duties of Taotai, your Excellency forwarded to me, a printed book containing the minutes of the whole case as disclosed by the trial; moreover you and I have met several times to consult about and consider this case. I now send you, herewith, my judgment. If your judgment accords with mine, let this be the end of this case of long standing. In the printed minutes of the trial, H. E. the Consul General is represented to state that the claim for the steamer *Keorjeor* was not included among the accounts against Woo Taotai which were referred to the Arbitrators, Cunningham and Hanbury.

I find among the old records, one of *Tung Chi* 2nd. year, 9th. moon, (October or November 1863), in which the Arbitrators Cunningham and Hanbury decided that 32 claims should not be paid. Among them was the claim of Hunt and Co. for Tls 12,000 charter of the steamer

不應還三十二欵之內確有柝記高橋輪船四個月租價銀一萬二欵總未議到等語本道查閱舊卷同治二年九月間金漢二人會斷貴總領事堂諭前次金漢二人會算吳前道賬目情形謂高橋輪船一尊見亦以為然即請照此定案以清塵牘至此案刻本內有裁奪如一紙送祈

貴總領事送到全案刻本並屢次面議會商在案茲就鄙意酌定斷語沈升道會審擬送堂斷治本道到任後又由

來函以熙爾控楊泰記一案斷語請見復等因查此案前經啓者七月十八日接展

馮道臺來函

Keorjeor. A copy of this award of the Arbitrators, Woo Taotai sent to this Yamen. And I presume you have a copy in your Consulate, from which it can be easily seen that, according to the award of Cunningham and Hanbury, the case of the steamer *Keorjeor* has long since been settled; *i. e.* that the money should not be paid. Now Cunningham in his testimony states that the Arbitrators, when the matter was in their hands, carefully examined all the evidence supporting the various claims before they decided. In the case of the steamer *Keorjeor*—there was no evidence of charter-party; therefore they rejected the claim. This is clear evidence that this case has already been deliberated upon and decided.

Now Mr. Hill comes forward and adds ten months to the charter =Tls. 30,000. plus the price of the steamer Tls. 12,000—and claims in all more than Tls. 50,000. In support of this fictitious claim he brings forward no proof. Therefore, as I do not see my way clear to grant his request, there is nothing more to do but dismiss the petition.

A few days ago Mr. Kreyer handed to Mr. Drummond the printed minutes of the trial. After examination, he has added six arguments; and as these arguments are not without force, I send you, herewith, a copy of them.

計送斷語一紙又敦文所論六條

日祉

查閱此頌

無見照抄附送

所有全案刻本日前金繙譯攜交敦文洋人閱看後開有六條不爲
千兩控欠至五萬餘兩之多空言無據碍難准理祇好作爲罷論矣
經議及之明証此時熙爾又加十個月租價三萬兩并船價一萬二
船租價一萬二千兩一欵并無租據是以斷爲不應還等語尤爲曾
現在金能亨供稱當時細核各賬有無可憑之據然後斷定高橋輸
貴署亦有卷可稽可見高橋船租早經金漢二人議定在不應還之列
千兩曾由吳前道抄單移道有案即

Judgment of Feng Taotai in the Case Hill vs. Ta Kee.

This Case was heard last year before Shen,—the former Taotai—, but judgment was not given.

I have now carefully examined the testimony of the witnesses and the arguments of counsel for plaintiff and defendant. The testimony of the witnesses in this case was given long after the event referred to, by persons who wished to assist the plaintiff; and none of them could say positively that TA-KEE owed this money; therefore this testimony cannot be taken as proof of TA-KEE's indebtedness.

On examining the old record, I found, among the claims which Woo Taotai—in Mixed Court—was endeavouring to settle, in the 2nd year of Tung Chi, 9th Moon, one of Hunt and Co. Tls 12,000 for 4 months charter of the Steamer Keorjeor. This Claim the Arbitrators Cunningham and Hanbury decided should not be paid. Now Cunningham has testified in the trial of this case saying "there was no charter-party handed in as evidence. Therefore it was on this account that the claim was thrown out. If there had been a charter-party with the Taotai's Stamp affixed, we should have decided that the claim should be paid." The Arbitrators decided thus because there was no charter-party. This testimony is found in the printed book of the trial page 36, from which it is evident that this case was settled long ago.

If, at the time the Arbitrators rendered their award, Mr. Hill was not satisfied with their decision, he could, through his Consul, have pursued Ta-Kee; at that time he took no steps to enforce his claim, but waited till the 13th year of Tung chi (1874),—a period of eleven years—

赴領事處控追乃當時既不置辦遲至同治十三年時隔十一載之明白如果中人斷定之時熙爾不服所斷不難向泰記立時理論或並無租據故斷為不應還其供載在三十六頁可見當日業已清理照情形判斷若有租契而有吳道臺之印信者方可斷還等語是因璧禮議在不應還之列現在金能亨到案供明此欵並無租契憑據記行高橋輪船四個月租價銀一萬二千兩一欵經中人金能亨漢泰記欠銀之據檢查舊卷同治二年九月間吳前道會算各賬有柝干証口供係屬事後旁觀相助皆未能指實泰記欠銀之事不能作沈升道會訊未結茲復查閱各供及原被狀師辯論各節詳加酌核堂斷查熙爾控揚泰記欠高橋輪船租價一案上年

八月二十二日

when all of a sudden, he comes forward and adds ten months to his claim Tls. 30,000.—and says Yang Ta-Kee is indebted to him for 14 months charter of steamer Tls 42,000. Moreover Mr. Hill, in his petition, says that he had arranged to sell the steamer to Ta-Kee for Tls 8,500, but he claims as the price of the steamer Tls 12,000. In these different items of amounts his statements do not agree, but conflict one with the other.

Now as Yang Ta-Kee has been dead sometime and consequently cannot testify in this case—and as many years have elapsed since the indebtedness was incurred, documentary evidence is necessary for conviction; and as Mr. Hill has nothing from Ta-Kee to prove his indebtedness, it is difficult for me to decide that Ta-Kee should be made to pay this money.

According to Mr. Hill's own statement, he and Ta-Kee were the best of friends. As he took no steps to enforce his claim while Ta-Kee was living, now that he is dead it is impracticable.

This is my decision.

The Six Arguments of Mr. Drummond.

I.—In 1863 Mr. Hill presented a claim against the Chinese government for the charter of the steamer Keorjeor for 4 months. At that time the Arbitrators—Jenkins and Rodgers—decided that the money should be paid. Their decision in this, as in many other claims, was, in the estimation of foreigners and Chinese, not a just one.

II.—According to the book of the testimony in this case—on the 11th July 1863, Mr. Seward, U. S. Consul General, wrote a statement of

二按口供所載有一千八百六十三年西七月十一日西領事親筆所
平殊不愜中外人意
其時憑秦洛二人公斷此案允給熙爾租錢并所斷種種皆未得其
一按一千八百六十三年熙爾請中國國家出高橋輪船租錢四個月
抄錄敦文所述六條
日既不涉訟秦記已故未便再控應即作爲罷論此判
據呈案碍難斷追惟據熙爾供稱與秦記最爲交好等語則秦記在
道早經病故無從質証遠年欠項須以票據爲憑熙爾並無秦記欠
仍係銀一萬二千兩銀數種種不符情節自相矛盾現在秦記吳前
千兩且稟叙是船秦記買用允定船價銀八千五百兩而請追船價
久熙爾忽加十個月租價三萬兩謂秦記欠十四個月租銀四萬二

his opinion to this effect; "All circumstances considered, in my judgment Hill cannot legally claim against the Government." It follows that at that time Mr. Seward did not approve of the decision of Jenkins and Rodgers.

III.—Afterwards, the U. S. Consul General Seward and Woo-Taotai consulted together and agreed to select two honest foreigners to decide this case. And it was agreed that if these two men decided that the money should not be paid, that should end the case, and it should not be pressed in future. Thereupon, Cunningham and Hanbury—two men highly esteemed by both foreigners and Chinese—decided that this claim, for the want of evidence, could not be pressed against the Government; therefore the claim could not again be pressed.

IV.—It would seem then that this case was decided more than ten years ago, and Hill—knowing that he could not again claim against the Government—brings this action against Yang Ta-Kee, and claims that Ta-Kee's heirs should pay the bill. This new claim is made too, ten years after the death of Yang Ta-Kee, and two years after the death of Woo Taotai. While Woo Taotai was living, Hill was in China. Why did he not then present his claim when there could have been witnesses? Now—after the death of Ta-Kee and Woo—he brings forward this old claim. It is not necessary that I should set forth the extravagant madness of Mr. Hill.

V.—Mr. Hill now states that when the steamer was chartered, Yang Ta-Kee signed and sealed the charter-party in duplicate (*i. e.* in English

五熙爾現稱租船時經泰記簽名盖戳與以合同據云第一次斷案秦索取庶有人証可憑迨楊吳俱歿始翻舊案其荒謬更不待言故吳道臺亦捐館二年當吳道臺在時熙爾亦在中國何不于此時泰記向楊姓承業子嗣索取熙爾翻案在十年之後楊啓堂早經物四按此案斷定之後經十餘年熙爾知不能再向中國家索取復控楊索向中國家以其無據可憑也故不許再提

漢璧里斷之此二人公道持平素為中西人所共信亦云此項不能案如此二人以此錢不應索取則著為定案永不再提當據金能享三按嗣經吳道臺與西領事會議選舉在滬之公正西人二名斷結此中國家索取之理等語觀此則當時秦洛斷案西領事亦不以為然書一紙論熙爾索國家租錢云據我意論之此案各種情形斷無向

and Chinese) and that at the first Arbitration Mr. Jenkins saw it; and Jenkins in his evidence testified to the same effect. Cunningham and Hanbury state that on the occasion of the second Arbitration they did not see the said charter-party; they further state that had they seen the charter-party they would have allowed the claim. Jenkins is the only man who has seen the charter-party; and he was one of the first Arbitrators and will not acknowledge that he is in error. Men generally are not willing to acknowledge their own faults. Although he says he saw it, that is not sufficient evidence to establish the fact.

VI.—On June 19th 1863, Mr. Seward, the U. S. Consul General, took down Mr. Hill's statement as follows. "In September 1862 I made a contract with Burgevine, but as the money was not paid the Bill of Sale was not delivered" (Printed minutes page 43). This statement does not agree with his former claim (Probably his claim against Woo). Moreover the claim presented to the First and Second Arbitrators was for four months only; now he claims for 14 months. In this Mr. Hill contradicts himself.

改稱十四個月亦屬自相矛盾

等語與前案迥不相符且第一次二次所索租錢均係四個月今又六十二年西九月曾與白齊文立一合同因價銀未付故契未交出六按一千八百六十三年西六月十九日西領事所錄供詞熙爾口稱西爲第一次斷案之人常人之情不甘認錯雖云曾見不足爲憑見並云如見此合同定斷給租價但所稱曾見僅秦鎭西一人秦鎭鎭西曾見之秦鎭西亦如其言而第二次之金能享漢壁重皆云未

Mr. Berdan
Sept 6 Secretary's Off. Sept 7

No. 109. One Enclosure.

United States Legation
Peking, July 19th, 1876.

George F. Seward to
the Secretary of State.

Subject.

Chinese Immigration.

Synopsis.

Forwards slip from California paper. Touches briefly upon the proposals shown in it. The reports of the bad treatment of Chinese in California likely to affect our influence here, and may lead to unpleasant results.

No. 109. One Enclosure.

United States Legation

Peking, July 19th, 1876.

Honorable Hamilton Fish

Secretary of State.

Sir:

Since I wrote my despatch number 101, I have received a later home mail. From one of the San Francisco papers I have cut a slip which I enclose herewith. It gives all the information which I have fallen upon in regard to the measures now being proposed in Congress for the repression of Chinese immigration. 1/109

There are two proposals.

one

one to secure a change in our Treaties with China which will leave the two Governments at liberty to restrict the intercourse between China and the United States to persons who are engaged in commercial pursuits; the other to secure legislation, providing that not more than ten Chinese shall be allowed to land, in the United States, from any one vessel.

Those who have brought forward the former proposition cannot have remembered, I think, that a very large number of American Missionaries are settled in this Empire, and that millions of our countrymen take a devout interest in their work.

China

China would not drive out our missionaries if we should abandon them, but they would be subjected to many disabilities. The whole Christian world would find difficulty in reconciling itself to our course.

The limitation of Chinese immigration, as proposed in the other scheme, could only be carried out after a revision of the Treaties, unless we are prepared to set them aside of our own motion. While I do not believe that it is in contemplation to do this, I may say that it has not been easy to impress upon the Chinese right ideas of the solemnity of treaty obligations. It would be very

impolitic

impolitic to take any course which would weaken our position in this respect. Other Governments, who, for whatever reason have been more active in securing Treaties, and in defending them, would have the right to complain of us. It might reduce us to the necessity of giving up many valuable privileges here, or of entering upon a war to preserve them.

Anxiety is felt by some of our people, lest the reports of the contumelious treatment of the Chinese in California, which are circulated here, through the medium of letters, returning emigrants, and the foreign and native press, may lead to unpleasant results.

results. They will, I am sure, weaken our influence here, and at the ports.

I have the honor to be,
Sir,
Your obedient servant,
Geo. T. Ryder.

Enclosure.
Newspaper extract.

Dispatch No. 109.
Enclosure.

THE CHINESE QUESTION.

A concurrent resolution, recommended for passage by the House Committee on Commerce, requests the President to negotiate for an additional Article in the Burlingame Treaty, substantially as follows:

The United States of America do hereby reserve the right to regulate, restrict, or prevent immigration of Chinese subjects into the United States, except for commercial pursuits; and reciprocally, the Emperor of China reserves the right to regulate, restrict, or prevent immigration of citizens into the Empire of China, except for commercial pursuits.

Both Page and Piper say that the Committee would have consented to report the resolution without the clause allowing Chinese immigration for commercial pursuits, but they believed its adoption by Congress in this form will accomplish the desired purpose, as it evidently contemplates a strictly commercial convention, and they have no doubt that Secretary Fish will cause unmistakable language to be inserted in the Article, and guard against all misconstruction. Senator Sargent, on the other hand emphatically expresses the opinion that the passage of this resolution would be a positive obstacle instead of a help to the attainment of relief from the present raids. He believes it would be construed to cover Coolie immigration to an extent practically unlimited, and calls attention to the fact that it certainly would prevent the enactment of his bill, which provides that no more than ten Chinese passengers shall be admitted on any one vessel. It is his purpose to press this bill, and also his pending resolution for a radical change in the Treaty, as soon as the Senator resumes consideration of legislative business, now checked by the impeachment trial.

Mr. Berdan

Sundry

...r. Seward — No. 110 — Dated 19 July 187

Subject

Passports for Americans

in China.

After an examination it appears to me that Mr Seward's views upon the subject are judicious.

W. H. Trescott.

Answered in draft Sept. 11.

No. 110. Three Enclosures.

United States Legation.

Peking, July 19th, 1876

DEPARTMENT OF STATE RECEIVED SEP 5 1876

George F. Seward to the Secretary of State.

Subject.

Passes for Americans traveling in China.

Synopsis.

The British Treaty provides for the issue of these by the Consuls and Local Authorities. The Foreign Office suggests forms for the passes. Mr. Seward proposes a different form, and explains the reasons why Consuls

Consuls should not be forbidden to issue passes.

No. 110. Three Enclosures.

United States Legation.

Peking, July 19th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:-

The British Treaty of 1858 provides that "British subjects "may travel for their pleasure or for "purposes of trade to all parts of the "interior, under passports, which "will be issued by their Consuls, "and countersigned by the Local "Authorities."

In December of last year the Foreign Office addressed to this Legation, a despatch, proposing the form in which passports shall be

be issued hereafter, mentioning, in doing so, that the lack of uniformity has given rise to difficulties. I send
1/110. a copy of this despatch and its enclosures.

You will notice that the Foreign Office suggests, two forms, to be issued, as I understand it, simultaneously, by the Foreign Minister, and the Foreign Office, and that they do not say anything in regard to Consular passports.

I propose now to submit to them the form of passport and
2/110. endorsement, which I enclose herewith, together with the
3/110 memorandum also enclosed.

I have spoken with those

those of my colleagues, who are now in Peking, in regard to the matter, and they are willing that I should enter upon the subject, and will approve the arrangement which I propose.

A question of our own regulations arises in this connection. Our Consuls have no right to issue passports, but they have always issued the passes for which the British Treaty provides. They justify their course by saying that the passes given by them are the joint issue of the Consul and the Chinese local official; that they are good for China only, and for a limited period, and that they are the result of peculiar conditions existing

existing here, and peculiar Treaty provisions.

As foreigners in China are not allowed to travel into the interior without a pass, beyond the distance of 30 miles from the open port, as business sometimes, and pleasure very often calls them further, and as reference to Peking to procure passes would occasion much delay, owing to the inaccessibility of the Capital, it seems very desirable that Consular passports shall not be interdicted.

If this view be approved, a fee should be fixed. The usual fee of $6. is a very heavy one, considering the use made of passes in China, and the limitation

of

of time for which they are effective. The missionaries, in particular, would feel it unduly burdensome. I should advise that the fee be made one dollar.

Looking to the questions raised in this despatch, I can only deal with the Foreign Office with a view to learn what arrangement of the matter can be effected. This arrangement I could venture to agree to, provisionally, I think, if it should be satisfactory. but the matter may not reach a final stage, before your instructions can be received.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward.

Enclosures.

Enclosures.

1. Prince Kung to the Legation.
2. Form of passport and endorsement, proposed by Mr. Seward.
3. Memorandum.

Despatch No. 110.
Inclosure 1.

Translation.

Prince King, Chief Secretary of State for Foreign Affairs herewith makes a communication.

In the matter of foreigners traveling in the interior, heretofore passports have, in some cases, been issued by this Office, and, in some cases have been prepared by the various Ministers and forwarded to this office to receive the proper seal. The passports sent have not been uniform in terms, and this Office has had no basis for examination.

Since it seems plain from the investigation of the several cases, that the suspicions and difficulties arising from the lack of uniformity in the passports heretofore issued, have been the real causes of the disturbances in which local officials have failed to protect persons going under passports into the interior, and since certain passports have not been canceled

for

for a series of years to the result that the document prepared for one person is made use of by another, and since certain passports, uncancelled for a term of years, have been used to cover the transportation of merchandise, and the Yamen being unable because of the existence of this class of passports, issued without period for cancellation, to give the necessary orders to the local authorities to examine and protect holders of passports; Therefore two forms for these documents are now suggested by this Yamen (one to be issued by it, and one by the proper Minister) and forwarded herewith for Y. E.s examination.

It is earnestly desired that in the future

Passports may be
made out and filled in
according to these forms both for
order to convenience of inspection
in the interior provinces &
as giving a certain basis
for the necessary instruction
of local officials by this Office,
thus having much inconvenience

This Yamen has addressed
the various Ministers upon this
subject and requests an
opinion from H.E. when the
subject shall have received
consideration

Peking, Dec. 25. 1875

Chester Holcombe Esq.
Chargé d° Affairs &c

(over)

Form of passport to be issued by the Tsung li Yamen.

The Chinese Office for Foreign Affairs herewith issues a passport.

The ---- Article of the Treaty with ---------- states that "

"

An ------ citizen subject named ---- ----- desires to proceed to ---- ---------- in the province of ---- ----- for a term of ---- months, passing through the provinces of ---------- without stopping with ----- and this Passport having received the seal of the Shun Tien fu, is therefore furnished him. All local officials in the places through which he may pass are required to examine this Passport and if found in order to allow him freely and safely to pass, and in case of need

need to render all lawful aid and protection

At the expiration of ---- months from date of issuance this Passport is to be returned to this Yamen for cancellation after which term it becomes worthless.

Furnished to ------ citizen/subject named ----------

Kuang Hsu --- year --- month ---- day.

Form of passport to be issued by the Minister.

I _____
E. E. and Mr. P. of the _____
_____ to China issue the passport herewith.

The ___ Article of the treaty of _____ with China states that "_____
_____"

An _____ subject citizen named _____ desires to proceed to _____ in the province of _____ for a term of ___ months, passing through the provinces of _____ without stopping with ". and consequently this passport having been transmitted by the Chinese Foreign Office to the Shun Tien Fu for its seal is now furnished to the said _____

All local officials in the places through which he may pass

pass in case this Passport should be found in proper form and order are requested to allow him freely and safely to pass and in case of need to render all lawful aid and protection.

This Passport is good for ---months only at the expiration of which period it must be returned to ~~this~~ the undersigned for cancellation.

Furnished to _____

Kwang Hsu ___ year ___ month ____ day

Legation of the United States.
Peking, 27th Dec. 1875

To
H. I. H. Prince Kung,
Chief Secretary of State, etc.
Sir:

I have had the honor to receive Y. I. H's communication of the 25th inst, reciting some of the difficulties said to arise from a lack of uniformity in the Passports heretofore issued to foreigners for use in the interior, and suggesting two forms for future use, upon which Y. I. H. desires my opinion.

In reply, I beg leave to state that as this question is one of grave import affecting equally all foreign Governments, it must be carefully considered, and the

the views of the Representatives of other Powers be obtained upon it. When this shall have been done, I shall have the honor of addressing Your Imperial Highness again upon this subject.

With renewed assurances of my high regard I have the honor to subscribe myself

Your Imperial Highness'

Obedient servant

Chester Holcombe

Despatch No. 110
Enclosure 2.

Form of passport as proposed by Mr. Seward.

United States Legation / Consulate

187---

The undersigned, United States at requests the civil and Military Authorities of the Empire of China, in conformity with Treaty stipulations, to allow , a citizen of the United States, to travel freely, and without molestation or hindrance in the Chinese Empire, and to give him protection in case of necessity.

This pass is not transferable, and shall be void after the expiration of one year from its date.

(Signed) Minister / Consul.

Seal.

The foregoing pass has been examined, and found in proper form and order. All officials into whose jurisdiction Mr. _____ may come, are required to allow him to pass, and, in case of need, to give him protection. If he commits any offense he should be sent to the nearest American Consul for trial. He is not to enter any city or district which may be in rebellion. If he uses the pass after its date of expiry, he may be required to show that he has been detained in the interior by causes which he could not control.

Seal of Chinese Authorities

Despatch No. 110.
Enclosure 3.

Memorandum in regard to Passports for Citizens of the United States in China.

I. All passports shall be the joint issue of the Foreign and Chinese Authorities.

II. They may be issued by the Minister at Peking in concert with the Foreign Office, or by the Consuls at the open ports, in concert with the Intendant of Circuit.

III. They shall be prepared after the form attached hereto and shall be endorsed by the Tsung li Yamen or Intendant of Circuit.

IV. Passports shall be subject to the conditions contained in the endorsement.

(Signed) George F. Seward

Mr. Burdon
ack'd Sept 7.

No. 111. One Enclosure

United States Legation

Peking, July 20th, 1876.

DIPLOMATIC BUREAU
RECEIVED
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1876
OF STATE

George F. Seward to

the Secretary of State.

Subject.

Rent of Legation premises.

Synopsis.

Forwards receipted account in duplicate for rent of quarter ending June 30th. Has drawn upon the Secretary of State for the amount.

No. 111. One Enclosure.

United States Legation

Peking, July 20th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:—

I have the honor to transmit to you herewith an account, in duplicate, (one set being for the Treasury if needed) for the rent of the Legation, for the quarter ending with the 30th ultimo.

This account is in agreement with the terms of the lease executed April 21st, and forwarded in my number 49. I have drawn upon you for the

the amount shown to be due, and Mr. Holcombe receipts for the same at the foot of the account. Trusting that my draft will be duly protected,

I have the honor to be,

Sir,

Your obedient servant.

Geo. F. Seward.

Enclosure

Receipted account, in duplicate, for rent due on Legation premises for quarter ending June 30th, 1876.

H. Mc G.

Mr. Berdan
rec'd Sept 18

Art. No 71.

No 112.

United States Legation
Peking, July 24th, 1876.

George F. Seward to
the Secretary of State.

Subject.

Consul Johnson shortly to leave for home.

Synopsis.

As Hankow is an important post, and the office during Mr. Johnsons absence will be held by a merchant, an early appointment of a successor is desirable in case Mr. Johnson does not return.

No. 112.

United States Legation,
Peking, July 24th, 1876

Honorable Hamilton Fish.
Secretary of State.

Sir:-

The Consul at Hankow writes to me that he will leave, at an early day, for America. The post is a very important one, and the Consulate, in the absence of the regular incumbent, will be held by a mercantile Vice Consul.

It is, I think, very desirable that, in case Mr. Johnson does not intend to return, a successor shall be

be appointed without delay.

I have the honor to be,

Sir,

Your obedient servant.

Geo. F. Seward

Mr. Berdan

Ack. & file ack? Sept 11.

No. 113. Two Enclosures.

United States Legation.

Peking, July 25th, 1876.

George F. Seward

the Secretary of State.

Subject.

Outward transit passes at Chinkiang.

Synopsis.

The Chinese refuse to give such passes excepting for tea. The Consul complains of this. Mr. Seward, for reasons stated, declines to take up the question at the moment.

No. 113. Two Enclosures.

United States Legation

Peking, July 25th, 1876.

Honorable Hamilton Fish:—

Secretary of State.

Sir:—

I have the honor to hand to you herewith a despatch which I have received from the Consul at Chinkiang, in regard to outward transit passes. 1/113

The provisions of the Treaties, in regard to outward passes, are as follows:—

"Produce purchased by a British "subject in the interior, will be "inspected and taken account "of, at the first barrier it passes on

"on its way to the port of shipment.
"A memorandum, showing the
"amount of the produce, and the
"port at which it is to be shipped
"will be deposited there by the
"person in charge of the produce,
"he will then receive a
"certificate which must be
"exhibited and visèd, at every
"barrier on its way to the port
"of shipment. On the arrival
"of the produce at the barrier
"nearest the port, notice must
"be given to the Customs at that
"port, and the transit duties due
"thereon, being paid, it will be passed
"On exportation, the produce will
"pay the tariff duty."

"Any attempt to pass
goods

"goods, inwards or outwards,
"otherwise than in compliance
"with the rule here laid down,
"will render them liable to
"confiscation. Unauthorized
"sale in transitu, of goods that
"have been entered, as above,
"for a port, will render them
"liable to confiscation. Any
"attempt to pass goods in excess
"of the quantity specified in the
"certificate will render all the
"goods, of the same denomination
"named in the certificate,
"liable to confiscation. Permission
"to export produce which cannot
"be proved to have paid its
"transit dues, will be refused
"by the Customs, until the
transit

"transit dues shall have been
"paid."

In the cases reported by
Mr. Colby, he applied to the
Taotai (Superintendent of
Customs) for transit passes
for tea, and for lily flowers,
etc. The Taotai responded
that produce, brought out from
the country under transit pass,
had but rarely been exported,
that he would issue a pass
for the tea, but not for the
lily flowers.

A perusal of the treaty
stipulations which I have
quoted, will show that the
Taotai is quite right in
taking up the position that

produce

produce intended for
exportation only can be
covered by transit passes. It
would seem, however, that he
goes very far when he makes it
a rule to give transit passes
for tea, because it is an
article which is generally
exported, and to refuse passes
for all produce which is
generally consumed in China.

The provocation to take
up an extreme position, has
not been wanting however. Mr.
Colby wrote upon the subject
in his last year's Trade Report,
a copy of which he forwarded
to this Legation. He says: "I
began to look about me for the
causes

"causes (of the refusal to issue
"passes) and I have arrived at
"the conclusion that the chief
"one was the abuse of the
"privileges accruing under them.
"I am reliably informed that,
"at the time of their issue in
"such great numbers, they were
"hawked about the streets, and
"sold for nominal sums to
"Chinese merchants." × ×
"I knew of a Chinese firm
"coolly proposing by letter (which
"I read) to an American citizen,
"that he should procure transit
"certificates in his name, and
"that they would purchase them
"of him, at a price stated in
"their letter." Again:- "The

Chinese

"Chinese Officials claim that
"irresponsible foreigners, without
"capital, go into the service of
"Chinese merchants at a regular
"salary, in consideration of which
"they allow the hong business
"establishment to be run in their
"name, thus conveying to the Chinese
"all the rights that accrue to the
"foreigner by reason of his
"nationality".

Mr. Colby, as I understand his report, admits that the allegations of the Chinese Officials are true. That they are so, is, in fact a matter of common notoriety.

You will see from his despatch that the present rule at

at Chinkiang has been followed for about three years, and is approved by the Imperial Authorities.

Believing, as I do, that the existing Treaty stipulations in regard to outward transit passes are so unsatisfactory that it will be difficult to make them work well anywhere, and that the whole system should be revised, and looking to the irregularities which have prevailed at Chinkiang, I have been indisposed to enter upon a single handed contest with the Government here, in regard to the case sent up by Mr. Colby. This could hardly have

have had a good result, I think, and it becomes unnecessary in face of the fact that the German Treaty revision will bring the whole business under review at an early moment. I have addressed a letter to Mr. Colby to this effect, for which I ask your approval.

I have explained, in my notes on the revision of the German Treaty, that the British rejected Convention of 1869 contained, in my judgment the best solution of this question, which has ever been brought forward. I shall not be surprised if the Germans adopt it.

I have the honor to be,

Sir

Sir,
Your obedient servant.
Geo. F. Seward.

Enclosure.

Mr. Colby, number 35. of May 9th 1876. to Mr. Seward.

Despatch No. 113.
Enclosure 1.

Copy.
No. 35. United States Consulate
Chinkiang, May 9th, 1876.

H. E. George F. Seward.
E. E. & M. P. U. S.
Peking.

Sir:

I have the honor to transmit herewith copies of a correspondence (five enclosures) between the Taotai and myself upon the subject of outward transit certificates.

× × × ×
× × This is a very important question to this port, it being a sort of trade emporium for a very large and extensive scope of country, the prosperity of its trade very much depending upon the inter commerce brought about by the use of transit certificates. It is undoubtedly true that trade has been gradually languishing here since the native authorities have ceased issuing outward

outward transit certificates, for the very plain reason that the natives are subjected to such squeezes at the provincial barriers that they cannot afford to bring out produce. hence thousands and thousands of dollars worth of native products are prevented from seeking this trade center in exchange for foreign goods. My own opinion is that the principal objections to transit certificates come from the provincial officials, who dont like to relinquish their "bred in the bone" right and opportunity to squeze.

The Taotai advances several reasons why transit certificates should not be granted, the more particular of which are First, that large numbers of transit certificates have been issued and have not been returned, neither has the produce been brought in. This may be true and still

no

no wrong have been committed as there is no prescribed limit under present rules to the time of either returning a transit certificate, or bringing in the produce covered by same, the truth is, they are gradually coming in, one at a time. As shown by the annual Customs Reports.
Second. He claims that transit certificates have been taken out by persons who did not own the produce. I suppose he refers to my predecessors time. Of the truth of this I know nothing. I can only say that in all cases wherein I have or may ask for transit certificates, I have, and shall exercise the greatest possible vigilance that no frauds or other wrongs are practiced, and I have every confidence in my ability to frustrate all such designs.
Third. He dwells at great length upon the subject of export of the produce covered by transit certificates. This, to be sure is rather a

delicate

delicate question, as it involves a solution of the vexed problem of what is meant by "export". I claim, for instance, that Hongkong and Singapore are foreign ports, the Chinese officials seem to think otherwise, and I presume, believe that native produce sent to those places is brought right back into southern China and sold to natives. Large quantities of all kinds of native products go to Hongkong and are reexported to America, Australia, and other countries where dwell hundreds of thousands of Chinese, who, owing to their peculiar proclivities continue to subsist upon their native food and wear their native raiment. The fact is, the Chinaman is branching out into all parts of the civilized world, and his wants must be supplied. I only mention this to suggest the idea that there is a greater demand for native products abroad

abroad than the Chinese officials are perhaps aware of.

As to the abstract question of export, I regard it to be the province of the local officials and the Customs to look after that question, to see that produce brought in under a transit certificate is exported and the duty paid, or else confiscate the produce. They have the matter all in their own hands as soon as produce arrives at the last barrier, or Chinkiang.

I maintain that we are entitled to transit certificates, and that, if the present rules governing their issuance are not sufficiently stringent to protect Chinese interests, that is their misfortune, and not our fault. I do not understand that our rights in China, in this and other respects are so unstable as to be subject to serious abridgment at the caprice of local or other officials.

1

I earnestly and sincerely trust that Your Excellency will urge the Tsung li Yamen to revoke any and all orders laying an embargo upon the issue of transit certificates at this Port. which, if done, will cause our drooping commerce to revive, and trade to resume its wonted activity.

I am, Sir,
Your obedient servant.
(Signed) J. C. S. Colby
Consul.

Despatch No. 113.
Enclosure 2.

Copy.

No. 7. United States Legation
Peking July 24. 1876

J. C. S. Colby. Esq.
U. S. Consul
Chinkiang.

Sir:

Your despatch of May 9th was duly received.

There has been and still is a prospect that the whole transit pass question will come under review of the Foreign Ministers and the Chinese Government at an early day. For this reason and because the matter is one of great importance and much difficulty I shall not at present address myself to the Government in regard to the case reported in your despatch.

There can be no doubt that transit passes outwards can be taken out only for goods intended for exportation. Perhaps you could arrange with the Taotai to grant such upon

the

the filing of a bond at the Custom House by the person in interest, providing for exportation within a reasonable time. I would not care to propose this system here of my own motion. In point of fact the best solution of the question which has been suggested, so far as I know was that contained in Sir Rutherford Alcocks rejected Convention. The plan proposed by me, however, might give your post more or less relief, until the business can be dealt with here, in a general way.

Is it not possible for you to call in and return to the Taotai the old certificates outstanding of which he complains. You will of course insist that our people shall have all the privileges at your port, which are granted to others.

I am, &c.

(Signed) George F. Seward.

Mr. Berdan
Ack. Sept 18.

No 114. One Enclosure.

United States Legation.
Peking, July 25th, 1876.

George F. Seward to
the Secretary of State.

Subject.

The Ward claims.

Synopsis.

Reports a conversation at the Foreign Office. Room for hope that something may be accomplished.

No. 114. One Enclosure.

United States Legation

Peking, July 25th, 1876.

Honorable Hamilton Fish,

Secretary of State.

Sir:—

Referring to my despatch, number 107, of the 11th instant, in regard to the so called "Hard claims," I have now the honor to hand to you a minute of a conversation had with the Ministers of the Foreign Office on the 18th instant. 1/114.

You will learn from this that there is room for hope that the Government will deal with the matter in a more or less satisfactory

satisfactory manner.

I have the honor to be,
Sir,
Your obedient servant.
Grey F. Ward.

Enclosure

Minute of a conversation had with the Foreign Office upon the "Ward Claims."

Despatch No. 114.
Enclosure.

The Ward Claims.

Minute of an interview with the Members of the Foreign Office July 18th, 1876.

There were present Shên, Lung, Kuo, Chung how, Chêng lin and Hsia.

Mr. Seward briefly recited the history of the claims, and asked if the Ministers, and [illegible] considered (had) this matter, as requested in his letter of the 11th instant. There seemed no disposition to respond, and Mr. Seward went on to say that he was familiar with the business from its beginning, and if any points were not clear he would be glad to explain them.

One of the Ministers suggested that the matter should be dealt with at Shanghai. Mr. Seward responded that he exhausted effort at Shanghai years ago. Owing to Wood's official rank, he was not

not amenable to any Court there, and as he had refused to pay, the case could only be dealt with here.

It was suggested again that there was no proofs of the merits of the claims. Mr. Seward responded that he could not venture to adduce proof as to the merits of individual claims. They had all been decided upon in 1864 by arbitrators duly appointed, and their award could not be opened.

It was suggested that there was no proof of submission to arbitration. Mr. Seward then presented a copy of the submission, and an original note from Roo stating the substance of the award, his acceptance of it in part, and refusal to abide by it in other respects. It was suggested again that this did not prove a submission. The original document must be produced. To this Mr. Seward

answered

answered that the paper was at Shanghai, and will be forth coming.

During all this conversation, the disposition of some of the members of the Yamen was to treat the subject very lightly. This disposition became so marked, indeed, that Mr. Seward considered it necessary to say in a serious way that he had not brought forward a matter which could be treated with ridicule. The claims had been submitted to a pains taking examination. They were just. The Government of the United States has twice expressed the opinion that payment should be enforced. He was willing, as he had said, to explain any points which were obscure, but he could not think of discussing business matters in any other than a serious and sober way. This led to a change of tone on the part of the one or two

Ministers

Ministers, who had spoken in the vein complained of, and after some further talk the Ministers began a conversation among themselves of which enough was understood to indicate that the matter would be treated carefully if the submission to Arbitration should be produced.

From what was said Mr. Seward understood that the Queen might be brought to give orders to the Provincial Authorities to enforce the award against Wood's estate. He thought it necessary to say to the Ministers therefore that he could not treat the claims as personal to Wood. Wood was then officer in charge of military affairs. As such he had signed and sealed the submission, and the claim must be held to lie against the Government.

Considering the fact that this business has been open for 13 years and

and has been several times unsuccessfully brought before the Foreign Office, the general result of the conversation seemed not unsatisfactory.

Peking, July 19th, 1876.

Mr. Berdan
ack Sept 18.

No. 115. Two Enclosures

United States Legation

Peking, July 25th, 1876.

DEPARTMENT OF STATE
RECEIVED
SEP
15
1876

George F. Seward

the Secretary of State.

Subject.

Mr. A. Jenkins' claim.

Synopsis.

Mr. Jenkins claims that he has incurred heavy losses by illegal action of Chinese Officials. Mr. Seward states the case briefly, and the action heretofore taken in regard to it. Has asked Mr. Jenkins for fuller information.

No. 115. Two Enclosures.

United States Legation
Peking, July 25th, 1876.

Honorable Hamilton Fish,
Secretary of State.

Sir:-

I have the honor to hand to you herewith, copies of letters which have passed between the Consulate at Hankow, and this Legation, and the Foreign Office in regard to losses sustained by Rev. Dr. Andrew Jenkins, a citizen of the United States, in consequence of the alleged illegal detention of goods shipped by him, under transit passes, from Hankow for Chunking, a city on the

Yang

1/115

Yang tz river in the province of Sz Chuen.

The adventure was a large one, amounting to Taels 127,947, or about $160,000. Mexican. The goods were carried to a place, en route, called Kwei Chow, about 500 miles from Hankow, without interference. At that point, certain native officials siezed the boatmen, subjected them to much abuse, and put boats and cargo in embargo. Mr. Jenkins sent an agent to the place, and afterwards proceeded there himself. His efforts to secure the release of the boatmen and the goods were unavailing, until finally

finally, a compromise of the levies demanded was arrived at. The period of detention was from eight to ten months, and Mr. Jenkins claims that his losses in consequence amount to about $100,000.

This matter was brought by Mr. Williams and Mr. Avery before the Foreign Office here. After much delay, a reply was received, which set forth a statement that the goods did not belong to Mr. Jenkins, but were the property of certain Chinese merchants. With it, were sent copies of declarations made by various persons, and by intercepted letters, all corroborating

corroborating the view of the Foreign Office.

Mr. Avery forwarded a copy of this response and its enclosure to Hankow, and asked for evidence of Mr. Jenkins' ownership of the goods. The latter answered in an uncertain way, and Mr. Avery thereupon advised Mr. Johnson that he could have no more to do with the matter.

Mr. Jenkins has addressed to me several letters, since I have been in charge of the Legation, and lately I have been able to examine the record with a view to determine whether there is any reason for me

me to take up the case. The result has been a conclusion that I ought to give Mr. Jenkins an opportunity to make a more exact statement of the facts, and of his view of the considerations involved, and I have accordingly sent to him a letter, copy of which 2/115
is enclosed.

I take this course, not because I have much hope that I can do anything to assist the claimant, but because he assures me that his losses are very heavy and that the cases, to which he refers as having been settled by the British and French

Ministers

Ministers, are identical with his. It seems desirable, moreover, that we should know exactly how business of the kind is conducted, so as to be able to discuss the questions involved in an intelligent way, and to give necessary advice to our Consuls.

It does not appear that either Mr. Williams or Mr. Avery reported this business to the Department. Perhaps I might as well wait before doing so until I could place it before You in a completed form. My rule, however, is to report each step of my management of the matters with which I

am

are called to deal, and I prefer to adhere to it, until I hear from you that the rule is not considered a desirable one.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward.

Enclosures.

1. Correspondence relating to claim of M. A. Jenkins against the Chinese Government.
2. Mr. Seward, number 15. to Mr. Johnson.

Despatch No. 115.
Enclosure 1.

Copy.

United States Consulate
Hankow, July 27th, 1874

S. Wells Williams, Esquire
Chargé d'Affaires
Peking.

Sir:—

x x x x
x x x during the months of April and May last past, I received repeated letters from Mr. Jenkins, informing me that certain boats, containing goods belonging to him, were detained at the Tax Station at Kwei Chow fu for no just cause (as they were properly shipped under a transit pass) and requesting me, to secure the release of the same through the officials at this Port. Upon the receipt of these letters from Mr. Jenkins I wrote to the Taotai at different times, and requested him to communicate with the tax officer at Kwei Chow fu with a view to securing the release of the goods illegally detained there.

My

My letters to the Taotai did not accomplish the desired end, as the goods were not released.

Mr. Jenkins intimated to me that he wished to send a foreigner to Kwei Chow fu, as his agent, as he thought the presence of such a person there, would be an assurance to the officials that the goods were really foreign owned, and shipped in good faith under transit passes and in consequence would be released at once. x x x x

x x According ly, on the 29th of May a passport was obtained from the Taotai for Mr. P. Rhode to proceed to the province of Sze Chuen and he left for his destination on the 2nd of June, fully empowered to act as the agent of Mr. Jenkins. After the departure of Mr. Rhode, Mr. Jenkins concluded to go to Kwei Chow fu himself, a favorable opportunity offering and he having heard that others of his boats had been detained there, whereby he

he was suffering great pecuniary loss and inconvenience.

I now beg to hand you a copy of a letter received from Mr. Jenkins after his return from Kwei Chow fu:— "I beg to call "your attention to the fact that goods, "as per inclosure, are still detained "at the Tax Station at Kwei Chow fu. "I now beg to give the following state= "ment of facts."

"The city of Kwei Chow fu "is under the government of a "Magistrate and Prefect, the Prefect "has control of the Customs station; "besides this Customs Station, there is "an inland Tax Station, or Lekin "office, which is at present under "the management of "Tso" the Expectant "Taotai (now only Acting) The goods "which have arrived at Kwei Chow "fu at different times, have passed "the Customs Station and were found "in order but on applying to the Tax "Station, the said Acting Taotai positively refused

"refused to allow the goods to pass,
"stating that the transit passes were
"all forgeries. At first this officer
"only threatened the boatmen and
"detained them, thinking that this
"course of action would serve his
"purpose, namely, it would be so
"expensive to boats conveying foreign
"owned goods, that they would, in
"future not take them. Failing to
"carry his point by his former action,
"he then began to torture the head boatmen,
"in hopes that they would give some
"Chinese named as owners of the
"goods. The sufferings of these unfortunate
"innocent men, are beyond expression.
"The letters which have been written to
"him by his Ex. the Taotai, he declares
"are all lies, and that he is not under
"the control of the Hankow Taotai, and
"cares not what that official says.
"The number of letters written by H. E.
"the Taotai, and H. E. the Governor
"General (I must refer you to the records
"in your office for number of letters

written

"written on the subject) appears only
"to have had the effect of making him,
"the Acting Taotai, more savage in
"his treatment of my Chinese
"employees."

"I received a copy of a
"proclamation issued at Kwei Chow
"fu, under the authority of H. E. the
"Governor General of Kg Chien.
"Although this proclamation was a
"great violation of the Treaty, I concluded
"for the time being to act on its
"suggestions. I went to the extra
"expense and engaged the services of
"a European to reside at Kwei Chow fu,
"to represent my interest there. How he
"was received, his statement, which
"I enclose, will show. He was refused
"to state his case before the officials,
"which privilege is allowed to the
"meanest coolie in the country. The
"Acting Taotai, not being satisfied with
"this outrageous action, sent his
"runners on board of the junk where
"my European was stopping, and

forcibly

"forcibly carried off the head boatman
"an unheard of outrage, and for the
"simple reason that his boat had
"goods belonging to me."

I went to Kwei Chow fu
"this month myself on the 4th inst.
"and on applying for a room in a
"Chinese boarding house, was refused.
"The reason given was "we fear
""trouble if we render assistance
""to you." After this I went on
"board of a junk containing goods
"belonging to me. This junk had been
"detained three months less two days.
"I made inquiries for the head
"boatman, and was informed by a
"few coolies on board, that he was in
"prison, and was being flogged every
"few days. I asked them the reason
"why. The answer was "the head
""boatman enraged the Taotai by
""insisting that the goods he has in
""his boat belonged to Kung tai" (which
"is the name of my firm). I then
"inquired where my Chinese agents

were

"were. I was told my man Lee had
"secreted himself, for fear of the torture
"he would receive if arrested. as
"the Taotai, with the Magistrate, were
"sparing no pains to recapture him.
"For the Taotai had said that the
"worst punishment that could be
"inflicted was too good for such a
"rascal as Lee. His offence is, simply,
"that he is engaged by me to look
"after my goods (and interests) as they
"are passing Kwei Chow fu Tax Station.
"My other Chinese agent, named "Tan"
"was under arrest. I tried all means
"possible to see him, but was prevented.
"This in itself I consider a great
"outrage, for the greatest criminal in
"the land is allowed to receive what
"friends he may have, in fact Chinese
"prisoners have to depend upon what
"help they can get from the outside,
"wherewith to keep soul and body
"together. Failing to get sight of either
"of my two agents, I tried to secure the
"services of a Chinese writer, but here

I

"I also failed, for none could be had,
"and for the first time I found myself
"in a state of perfect helplessness to do
"anything in regard to my goods
"detained at Kwei Chow fu Tax Station.
"I would here mention the fact that
"I took some of the packages of piece
"goods from the boats, and found them
"wet with sweat and mildew, consequently
"the goods are mostly ruined. And I
"further beg to state that it is my firm
"belief that orders have been given
"to the people not to receive or assist the
"foreigners, for the very gates of the city
"were closed against me, as orders had
"been given to the guards not to allow
"foreigners to enter the city."

"My goods having passed a number
"of Tax Stations on the journey of
"about 500 miles to Kwei Chow fu,
"and passing the Customs there, must
"strike everyone that every thing
"regarding the goods and papers were
"in order. And to prove to you the
"utter uselessness of further correspondence
with

"with local authorities in this case:—
"1st: There are the transit passes which
"have been proved correct at Kiwei Chow
"for by the Customs Station.
"2nd: The number of letters written
"by H.E. the Hankow Taotai and H.E.
"the Governor General of Hupeh,
"and further than the above, the orders
"of the Ly Chwen Viceroy to release
"goods under transit passes represent
"ed by a European. And what good
"has all this done? Nothing but
"caused the high handed official
"(acting) in charge of the Tax Station
"to treat my agents and boatmen
"worse than highway robbers. There is
"only one way to settle this matter, that
"is to demand a settlement immediately.
"This is not only necessary for the
"goods in question, but likewise to save
"the lives of the unfortunate men who
"are imprisoned, who have comitted
"no offence beyond the conveying of
"foreign goods. And the way I was
received, I consider it unsafe for

a

"a European to go to Kwei Chow fu
"unless under a guard of soldiers."

"I now must ask your
"immediate attention of this case,
"hoping you will not forget the
"unfortunate men who are in
"prison, unable to get food, as it is
"a crime for any respectable
"Chinaman to help them. This I
"will prove by a further statement.
"My agents are scattered to the winds,
"so I am unable to send them money."

"I will now state an occurence
"which happened at Kwei Chow fu lately.
"A Chinese Bank rendered assistance
"to a junk of mine, which met with an
"accident, by sending two boats to save
"the cargo: for that kindness his bank
"was sealed (closed) by the Taotai. And
"to show how the Treaty is respected, the
"Taotai of Chenkying has ordered all
"the dealers in foreign imports to sign
"a bond that they will have nothing to
"do with goods that have been carried
"under a transit pass. You can

form

"form your own conclusion what
"such action on the part of officials
"must lead to."

"I beg to request that this
"matter be forwarded to H. E. the
"U. S. Minister, and I must ask you
"to impress the fact on His Excellency's
"notice, that this case demands
"immediate attention for the sake of
"humanity. If Chinese employed
"by foreigners are to be tortured to
"death, for no other crime, no
"foreigner will be able to procure
"their services."

"The value of the goods
"amount to one hundred and
"twenty seven thousand, nine hundred
"and forty seven taels. (Taels 127.947.00)
"This is the first cost, to which must
"be added the freight to Chenking,
"and expenses of detention at Kiwei
"Chow fu, and for sending a special
"agent to that place, besides recompense
"to Chinese employees for torture and
"illegal imprisonment, loss of market

and

"and interest of invested capital,
"and any damage which the boats
"may suffer during their stay or
"detention by the Authorities at
"Kiwei Chow fu: and all minor
"expenses which I may hereafter be
"obliged to incur in defending my
"rights".

The Expectant Taotai at Kiwei Chow fu has never assigned or given any reason for detaining foreign goods at that place, further than that he knew them to be Chinese owned. This fact he has endeavored to establish, to his own satisfaction at least, by flogging the boatmen who have charge of the goods from day to day, in order to draw from them a statement that such is the case. Many of the boatmen persisted in stating that the goods were foreign owned. These people he not only flogged in a most brutal manner, but threw them into prison where they at present remain.

I

I beg to call your special attention to the condition of these unhappy men (the boatmen) who are at present undergoing punishment at Kiwei Chow fu, for no other reason, as Mr. Jenkins says on his letter to me "than that they are engaged "in conveying foreign goods." The barbarities practiced upon them, by the Expectant Taotai, demands a protest, if only in the cause of humanity.

I am informed of the detention of one boat at Kiwei Chow fu that was carrying foreign goods to Chenking, the property of an English firm at this Port, from which the head boatman was taken and flogged until he had received in all nine hundred blows. After this punishment had been inflicted, and a fine of 180 taels had been imposed, the boat was permitted to proceed on its journey. This is only one of

the

the many high handed acts the Expectant Taotai at Kiwei Chow fu has been guilty of, and for which he should be held accountable.

x x x x

x x x x

I have &c.

(Signed) R. M. Johnson
Consul

Translation.

Lëëng. Acting Superintendent of General Trade states that he " received the following communication from the Tsungli Yamen with reference to the payment of duties at the various Custom Houses, and Lekin taxes at the various barriers on foreign goods conveyed into the interior according to Article 12th " of the Regulations resolved upon in the 11th Years of Hsien Fëng, how it is only when the particular merchant does not possess a transit pass which he may present at each barrier along the Yang tz, having paid the full and the half duties that matters are to be thus arranged. If the 28th " Article of the English Treaty and the 7th " Article of the Supplementary Treaty be carefully examined it will be found that foreign goods having " entered a port, and having paid the full duties and the transit duties ought on the presentation of the transit pass along the road to be allowed to

proceed

proceed whether far or near, without any further charges whatever.

With regard to Chinese merchants trafficking and transporting foreign goods, both the 10th Article of the Hankiw Treaty and the 28th Article of the Tientsin Treaty state that after the various goods have paid the dues Chinese merchants may convey them to every part of the Empire. It is also stated that the Transit dues on foreign goods having been paid at the seaport a certificate shall be given which will exempt the goods from all further inland charges whatever. Thus foreign goods conveyed into the interior it matters not whether by Chinese merchants, or foreign merchants are simply by holding the transit certificate exempt from all further Lekin dues. If it be said that Chinese merchants, in transporting foreign goods though holding a

transit

transit pass will, if they pay not the Lekin dues defraud and smuggle (let it be observed) that this concerns the regulations of the Lekin barriers and has nothing to do with the provisions of the treaties. The 46th Article of the English Treaty states that the Chinese Authorities at each port shall adopt the means they may judge most proper to prevent smuggling. The treaties in their spirit and letter refer to the seaport full duties and the interior single transit dues. They were not at all established on account of the Lekin barriers. As to the transit pass the transit duty must first be paid, and then the Custom House may issue it. In the 2nd year of Tung Chih, 12th moon, Sir F. Bruce, H. B. M. Minister in his proclamation refers exclusively to foreign merchants entering the interior and selling foreign goods themselves. Its principal ideas are two: 1st of the

merchant

merchant does not desire to pay the transit dues, that is the single charge, then the duties must be paid at each Custom House, and the Lekin at each barrier. 2nd. If he does not desire to pay the duties at each Custom House, and the Lekin at each barrier, then he must pay the transit dues, that is the single charge. In both cases his own convenience is to be consulted. It is of the utmost importance that all should be arranged according to Treaty. By no means may the Treaty be violated on account of the Lekin and contentions be opened with the various Consuls. This despatch is forwarded to the various Custom Houses to be transmitted and obeyed.

10th November, 1868.

Copy.

Legation of the United States
Peking, August 25th, 1874

R. M. Johnson, Esq
U. S. Consul,
Hankow.

Sir:—

I am in receipt of your despatch of the 27th ult (No 289) with its enclosures, relating to the detention of goods at Kwei Chow fu in Sz Chwen by the local authorities, who have cruelly misused the native boatmen in charge of them.

The circumstances detailed in this despatch present a course of unjust and illegal acts, unusual even in China, and I shall bring them to the notice of the Foreign Office as soon as I can prepare the despatch. I infer from your narrative that the goods detained at Kwei Chow fu actually belong to Mr. Jenkins, and are not the property of natives living at Chunking

or

or elsewhere, for I cannot find an express assertion to this effect, and the point has an important bearing on presenting a demand for indemnity. Mr. Wade tells me that he is urging on the Foreign Office to order the release of the goods of British subjects detained at the same place.

x x x

x x x

I am, &c

(Signed) S. Wells Williams

Copy.

Hankow, October 15th, 1874

R. M. Johnson, Esq.
U.S. Consul
Hankow.

Sir;—

I beg to thank you for your kindness in sending me the various letters from Mr. Williams in reference to my goods detained at Kiwei Chow fu, for perusal, on my return this day. Referring to the inquiry contained in the Ministers despatch, whether the goods detained actually belong to me, I beg to call your attention to my many letters to you on the subject wherein I have repeatedly spoken of them as my goods.

I must now beg again to call your attention to the outrageous treatment of my boatmen at Kiwei Chow fu, and also to the unheard of treatment of persons belonging to six native hongs at Chunking. The persons in question were dragged overland, in

Chains

chains, from Chunking to Kwei Chow fu, and are now being tortured with unheard of cruelty, to make them confess that they are the owners of my goods at present detained at Kwei Chow fu. That the boys in question, on former occasions have had dealings with me, is the cause of their present treatment. I must beg of you for the sake of the unfortunate men who are undergoing the most horrid treatment, to ask H. E. the Minister to lose no time in sending an official to Kwei Chow fu to investigate this case. So far the remonstrances of H. E. the Minister appear to have had only the effect of making the Kwei Chow fu tax collector more outrageous in his endeavors to force a signed confession from my Chinese employees &c, if possible, to clear himself of his unlawful acts towards me.

The last news, received two days since, from Kwei Chow fu is heart rending. I have been compelled

to

to write to my Chinese employees here to sign any document the officials desire them to do, in order to save their lives. You must now see the urgent necessity of this my request, and I hope you will use your utmost endeavors to induce H.E. the Minister to act at once.

I am, &c

(Signed) W. Andrew Jenkins.

Legation of the United States.
Peking. September. 2d 1874.

To His Imperial Highness.
Prince Kung.
&c &c

Sir

I have received a dispatch from Mr. Johnson. U. S. Consul at Hangkow, inclosing the following report from Mr. Andrew Jenkins of the Kung-tai Hong at that port:-

"During the present year "I have" successively hired native boats "to send foreign goods, longcloths, &c, up "the Yangtsze River as far as Chungking "in the province of Szchuen, there to be "divided. I have paid the proper transit "duty upon the goods at the Hangkow "custom house, and obtained a transit "pass for each boat-load, and on showing "it at the various stations along the "Yangtsze, the boat has been allowed to

"proceed

"proceed on its way. When the boats
"reached Kwei-chan in Szchuen, where
"there are two Stations for collecting duties,
"the officer in charge at that on the
"river examined the boats and gave
"them their clearance; but when the
"pass was presented at the Lekin station
"away from the river, the taotai in charge
"declared that it was false and the
"seals on it had been forged, and that
"the owners had pretended the goods be-
"longed to foreign merchants. He there-
"fore stopped the goods, and detained
"the head boatmen in the yamun for
"trial, punishing them with torture and
"imprisonment.

"On hearing this, I immediately
"asked the American consul at Hangkow
"to represent the case to the taotai there,
"and get the Governor-general to send a
"dispatch to the Governor-general of
"Szchuen, and assure him that these
"goods do really belong to a foreigner, in
"order to make the taotai at Kweichow
"examine and clear them without delay.

"If

"It was a great surprise, indeed, to
"learn that the last named officer told
"the men in charge of the goods in transit
"that the Governor-general of Hukwang
"had no control at all in his jurisdiction,
"and he would not release the boats, of
"which there are 21 in all now detained.
"The Taotai at this place obtained the
"assent of the Governor-general, and
"issued a proclamation in which it is
"declared that only goods actually in charge
"of a foreigner will be regarded as not
"simulated. On learning this, I sent a
"foreigner up to the city, who, on his
"arrival there on the 25th of June, went
"to the Yamun office to state every par-
"ticular in the plainest manner, but the
"officials there refused to see him at all.
"He thereupon wrote the taotai a full
"statement of every thing, and how the
"boats and cargo, with their captains,
"had all been detained more than three
"month in violation of the treaty; and
"begged him to let the men and goods
"all go immediately. But all this

"failed

" failed to induce him to liberate the one
" or the other.

" Finding that the agent whome I
" had sent was refused by the officials,
" and could do nothing. I went up to
" Kweichau myself to represent the particulars
" of this matter to them; when there I asked
" for room in an inn in the city, but the
" landlord was quite firm in declining
" to take me in lest he should get into
" trouble for so doing, if the officers knew
" it. I had no resource, therefore, but to go
" aboard one of my boats to stay. I asked
" where was the head boatman, and found
" that he was in prison; that a comprador
" who had been placed in charge of the
" goods, and belonged to my hong, had
" gone off to avoid seizure; and that
" another comprador was detained in the
" Yamen at that time; but I was not
" permitted to go there to see them.

" I examined the goods thus kept for
" three month in the boats, and found
" them mildewed and damp. much changed
" by the weather. I also was informed

" that

"that a native banking house, which
"had sent boats to assist one of my
"boats injured through a collision, and
"save the goods, had been seald up by
"the officials, and prevented doing business

"Finding such a state of things,
"I returned to Hangkow, and now state
"all these particulars to you, Sir, with
"a request that you will inform the
"Taotai here at Hangkow of the detention
"of my goods, of their damp and ruined
"condition, which renders them quite
"unsaleable, and demand indemnity for
"their loss to the amount of Tls. 127.947.
"besides the cost and expence of the boats.
"I also request that proper measures may
"be taken to inform the Governor-general
"of Szchuen of the condition of the many
"boatmen who are now detained, there,
"so that he can order their release."

I have recently, adds the consul, had many such instances as the above, where foreign merchants have sent goods into the country, as to Hangchau and elsewhere in Hunan, and when those in charge

they

they have reached the lekin stations and reported them exhibiting the transit passes, the officials have repeatedly hindered them - But the present case of the Hung-tai Hong is worse; for the taotai in charge of the station at Kweichan will not examine whether the goods are really foreign or native property and has stopped the boats with their crews and cago, and the authorities at Hangkow are unable to afford any relief. I have therefore stated all these particulars in order that inquiry may be made and the affair be rectified.

I have now stated all the points of the case of Mr Jenkins to your Imperial Highness, so that action may be taken. I may here refer to the list of additional regulations proposed by the Yamen in the winter of 1874. one of which had reference to transit passes, and provided that when foreign goods were to be sent into the interior for sale application was to be made for a pass, so as to prevent levying the duty over

again;

again; but it said nothing respecting the presence of a foreigner with such goods. But in the present case, the Intendant and the Prefect of Kweichow, on the 15th of last May, issued a joint proclamation on this matter, in which they declare that unless a foreigner accompanies the goods in transitu they will certainly be regarded as belonging to others and simulated.

I am quite unable to comprehend how, after the publication of these rules, to local officers can fail to understand them and act in entired opposition to them by issuing such a proclamation.

Further, there numerous stations along the river from Hangkow to Chungking, and if foreign merchants successively send goods on, and the local officials act in this manner, impresoning innocent boat man and detaining goods as they please, how can any buisiness at all be done.

The intendant of Kweichau never took the trouble to visit the boats

detained

detained to examine for himself. nor did he make inquire of the boatman, nor did he confiscate the goods; it seems to me that your Imperial Highness will regard such a willfull way of acting as very strange and inexplicable.

The goods in question are now damp and injured, and unfit for sale. a loss to their owners of more than 120,000 taels, which they cannot loss, and must in equity be compensated for. But I also now request that orders may be sent to the authorities in Szchuen to release the boatman now in prison, and show them some mercy.

I have. &c.

S. Wells Williams.

Legation of the United States.
Peking. November 7th 1874.

To His Imperial Highness Prince Kung.
&c. &c. &c.

Sir.

In August last, Mr Williams sent you a communication in relation to the detention of goods at the town of Kwei-chau in Szchuen, belonging to the American firm at Hankow of Hung-tai (M.A. Jenkins), be the Intendant of the li-kin office, who had also imprisoned the boatmen; and in it requested that orders might be sent to have them set at liberty. An answer was received on the 9th of September, informing him that orders had been sent to the Governor-general Szchuen to attend to the affair.

On the 16th of last month, Mr. Johnson, the U. S. Consul writes me that he had received Mr. Williams' dispatch of August 25th stating that the Foreign Office were to be informed of the case, and would transmit orders to

the

the authorities of Szchuen to examine into
the thing and settle it." But up to this
" day," he adds, " neither the boats nor the
" boatmen have been released by the Intendant,
" and the latter are in much danger of
" their lives. If the orders have been sent
" to the authorities of Szchuen to attend to
" the affair, whether those authorities have
" failed to pay any attention to it, are points
" on which I cannot now decide.

"I yestoday received a letter from
" Mr Jenkins, in which he states that
" the Intendant at Kweichau, suspecting
" that the heads of six mercantile houses
" at Chungking had some connection with
" this affair, had them arrested and
" brough in chains all the way overland,
" several hundred li, to Kweichau, in
" order to make them confess that the goods
" were theirs; and these six men were now
" imprisoned there, and suffering even to
" the risk of their lives. He had also written
" a letter to his agent there, telling him to
" advise these men and the boatmen to
" confess any thing if the magistrate would

Set

" set them at liberty and save their lives,
" whatever became of the goods detained.
" it is for these reasons that I now again
" bring this case to your notice, and beg
" that you will do whatever can be done
" to have the affair investigated and
" settled as soon as possible."

I may remark to your Highness in respect to this case, that a long time has now elapsed, and those people are still kept in durance and the goods detained; while the goods belonging to certain English and French merchants kept in custody a Kweichau in the same manner, have all been liberated. I am therefore quite unable to explain the cause of this different action in cases just the same, or to understand why Mr. Jenkins' goods are still detained; and I think that your Highness, on learning the facts, will also deem it rather strange.

I greatly fear that if the boat men are not immediately set free, their lives will be endangered; and

the

the goods too, which are still detained, are not only much injured by mildew and damp, but many things have been stolen, all of which will make it very difficult to satisfactorily settle this matter.

I know no other course to take than to request your Highness to straightway send a special messenger from Peking to Hangkow, who can communicate there with the U. S. Consul, and the two go to Kweichau together. Here to ascertain the truth of the affair with the Intendant. This plan is proposed in order that the persons now in custody may be liberated so that their lives and health be no longer imperilled. I confidently expect too that the goods and boats will be set at liberat. at the same time, and respectfully urge your Highness to see that measures be now taken to have these things done soon.

I have the honor to be your
Imperial Highness.
Obedient Servant.
Benj. P. Avery.

Tungchi, 13th year. 10th moon. 23. day.
(December 1st 1874.)

Prince Kung. chief Secretary of State for Foreign Affairs. herewith makes a reply.

I have had the honor to receive your Excellencys dispach of the 6th ult, in which you give me further particulars repecting the detention of the goods and boatmen belonging to Mr. m. a. jenkins by the Intendant of Kweichau fu in Szchuen; and state that Mr. Johnson, the Consul at Hangkow, has reported the complaint of Mr. jenkins that in addition, the same Intendant has involved the heads of six hongs living at Chungking fu, whome he has dragged as prisoners all the way, several hundred li, to Kweichau under the suspicion of connection with this affair, where these innocent men are now held in durance and chains, to the great risk of their lives, charged with being owners of the detained goods; but that the owner

(Mr jenkins)

(Mr Jenkins,) has written to have the men confess any thing in order to procure their liberation. no matter what becomes of the goods in question, &c.&c. Your further request that a special officer may be sent from Peking to Hangkow, and in concert with Consul Johnson proceed to Kweichau to enquire into the conduct of the Intendant, liberate the men now detained and release the boats and goods.

Since the date of the dispatch I have also received your note of the 29 ult; inclosing the pititions and protests which the prisoners had sent to the Intendant about their case.

In reply to the above, I may remark that on receipt of Mr Williams' dispatch of September. 2nd last, orders were immediately sent to the Governor-general of Szchuen. to inquire into the case, and see that the Intendant ascertained the facts and settle it rightly; as was in course reported to Mr. Williams at the time.

Since then, in October. letter have

come

come from the Governor-general of Szchuen affirming that many persons had falsely obtained transmit passes in the name of Messrs. Jungtai Hong (Mr. Jardines'), among whome were six merchants from the city of Chungking, who had gone to Hangkow. Shanghai, and other places to procure goods and bring them into Szchuen for sale. But these goods were not the property of the Foreign merchants, nor the men with them people in his employ. The Governor-general adds that he has already sent a special agent from Chingpu to Chungking to carefully enquire into the proceedings of these six resident merchants there, and then straightway proceed to Hweichau fu and compare the goods now detained with their invoices, and there settle everything according to the stipulations and provisions of the treaty.

Having received your Excellency's present statement, the Foreign Office has now again sent orders to lose no time in carrying out an honest inquiry

into

into the matter, and ascertain whether these goods really belong to foreign or native merchants, and immediately close up the affair, so as no longer to keep it in suspense.

In repect to your proposal to send a special officer to attend to this affair in conjunction with the U. S. Consul, I may observe that all all cases arising in the provinces are placed in the hands of the local authorities for settlement, and it is inexpedient on many accounts to send special officers to go their for such purposes.

As soon as replies are received from the orders now sent in respect to this matter. I will again address you; and meanwhile make known this which has been done now.

To His Excellency.

Benjamin. P. Avery

U. S. Minister to China

Prince Kung, Chief Secretary of State for Foreign affairs, herewith makes a communication.

In the matter of the investigation into the seigure and detention of boats and merchandies at a Lekin barrier at Kwei Chou in Szchwen; On the 2nd day of September. 1874. I received a dispach from Charge' Williams reciting the statement of the Kung-tai Hong, to the effect that the goods were being destroyed by mildew and asking compensation. I at once issued instructions for a through investigation, and so replied to Mr. Williams.

In month of November or December I received despatches from Your Excellency communicating the petitions of the Kung-tai Hong to the effect that the Intendant a Kwei-Chow had dragged six Chinese firms at Chungking fu into the affair, and forwarding copies of the petitions and dispositions of the Kung-tai Hong. I again sent orders for an enquiry and adjustment of the case

and

and so replied to Your Excellency.

I am now in receipt of a report from H. E. the Viceroy of Szchuen stating that the Inspector of Customs at Kwei-Chow and the officials specially deputed by H. E. to investigate the affair report that the Kwei Shung Lung" & other firms at Kwei-Chow had falsely assumed the Kung-tai" firm name and now had confessed as much deposed that the goods were their own, and have made of the extra taxes. But because of the entreaties of these Chinese merchants that the duties might be lessened out of consideration for the long detention of the boats & the consequent loss to their owners, a reduction of seven tenths of the local taxes had been made as an act of forbearance. After the statement of the merchants and the payment of the duties by them they, 6 in number and named "Li fu Ho" &c. were released; and the goods & boats were delivered to their proper owners. So the case was settled. And copies of the depositions, acknowledgments of ownership &c. were forwarded to this Yamen. It

appears

appears that these Chinese firms falsely assumed the "Kung-tai" firm name, and thus fraudulently obtained an internal transit pass. Their truthful acknowlegement of this fraud has been received, and the case settled. The "Kung-tai firm had therefore, absolutely no concern in the matter; and their statements as to the ownership of the goods, their destruction by mildew, asking compensation &c., in their frequent attempts to assist these Chinese merchants shows them plainly to have been in a fraudulent league with the Chinese. If such attemps as this were not most rigorously suppressed, every one would ultimately follow their example, to the great detriment of the Revenue.

It is my duty to forward for Your, Examination copies of the report received from Szchwen including nams of boats bill of lading lists of their owners, with their depositions, acknowledgements of ownership, and all correspondence involved in the case.

To. H. E. Benj. P. Avery.
U. S. Minister &c.

Peking 26th April 1875.

Legation of the United States.

Peking, April 30th 1875.

R. M. Johnson Esqr,
U. S. Consul.
Hangkow,

Sir.

I have to inform you that after much delay, and repeated importunity on my part, I have at last received from the Tsung-li Yamen a statement of the result of the investigation ordered by them into the circumstances of the seigure and detention of the boats and goods of Mr Jenkins' firm at Kweichau, it is necessary for me to say that as the initative of interventions with the Yamen had been taken by Mr. Williams, as Charge d'Affairs, some time before my arrival, and as it had been agreed to wait the result of the investigation ordered, I could do nothing in the matter but hurry up their action and press them for an early report, which I did on several occasions. Some delay was doubtless caused by the death of the late Emperor and the consequent mourning ceremonies, which

interrupted

interrupted several other matters pending.

I enclose for your information a communication from Prince Kung. You will see that he relies upon the alleged confusions of Chinese that the goods belonged to them for a justification of the action taken by the local officials, and that he considers the final release of the people and goods, on payment of three tenths of the internal taxes, a complete settlement of the whole matter. It does not appear that Mr. Jenkins, or any foreign agent of his, was heard, or allowed a part, in the investigation, nor is my reference made to complaints as to the exceptival character of the transit passes.

I do not accept the statement that the affair is now settled, and that charges of fraud and mis representation are proved against Mr. Jenkins; but I withhold any comment on Prince Kungs communication, and so inform him, until I can have your report of the character and result of the

investigation

investigation, and your final testimony as to the true ownership of the goods. If the local authorities have not acted in good faith - if a case has been made against Mr. Jenkins only by torturing his employes into given false testimony I shall take up the buisiness anew and not drop it until any proved wrong has been redressed. There has evidently been a great deal of falsehood somewhere, and the stone and and conclusion of Prince Kungs communication render it more necessary than ever that the blame should be fixed where it belongs.

I remain, Sir.

Your Obedient Servant.

Benjamine. S. Avery

Hankow 10th January 7th 1875.

R. M. Johnson Esquire.
H. B. M. Consul.
Hankow

Sir.

I have to thank you for permitting me to read the letter from H. E. the minister dated April 30th, wherewith is forwarded a letter from His Highness the Prince Kung, together with various depositions from the Vice Roy of Szchuen, said to have been made by different people in my employ and others connected with me in business. all in reference to goods belonging to me that were shipped under Transit Pass and detained at Kwei Chow-fu during last year.

Referring to the main point of the ministers letter in the ownership of the goods, I now beg to inform you and H. E. the minister. that I am the owner of the goods in question as I have so often inform you in my various previous communications. Next. I wish to call your attention to the statement of

His

His Highness the Prince Kung as follows:

"I am in receipt of a report from H. E.
"the Vice Roy of Szchuen stateing that the
"Inspector of Customs at Kwei-Chow, and
"the officials specially deputed by H. E.
"to investigate the case, report that the Kwei-
"Shing-hing and other firms at Kwei-Chow
"had falsely assumed the Kung-tai Firms
"name had now confessed the fraud, depose
"that the goods were their own, and had
"made up the taxes.

But because of the entreaties of these Chinese merchants that the taxes might be lessened out of consideration for the long detention of the boats and the consequent loss to their owners a reduction of seven tenths of the Lekin had been made as an act of forbearance.

The statement of the Vice Roy as to the official especially deputed to investigated the case is a mistake - Such an official a man named Tsung. was appointed as the Vice-Roy says to investigate the case.

This official proceeded as far as on his way to Kwei-Chow from Chen-Tu.

as

Chung-King where he remains sending forward as his representative a person named Gâou. This latter official did nothing at Kwei-Chow his nominal rank being so low that he could not deal with the officials at that place, and from what I can learn he never made any report whatever.

The statement that the Prefect at Kwei-Chow fu investigated the case is also false. as his letter to the Lekin Collector will show. a copy of which I enclose marked A. The above facts I learned during my visit to Kwei-Chow fu during last January, and for their truthfulness I can vouch.

The Vice Roy says the goods were released as a special favor on the payment of 3/10 $^{th}_{s}$ of the usual duty. This statement is so glaringly false. that H. E. must have made it willingly or else never examined into the truth of what duty was illegally collected by by the collector or Kwei-Chow. The duty actually paid was at three different rates, and as follows:

1669 Packages Taels 2266.- estimated at 3/10
380 " " 2065 69 " full native duty
+300 " " 652 23 " being half do

I found the above packages of merchandizes in 28 boats detained at Kwei-Chow when I arrived their in January last.

The twenty boats containing the 1669 packages referred to had been detained about 9½ months, three boats containing the 380 packages above referred to had been detained 9 1/3 months, the five boats containing the 300 pacages above referred to were actually only detained 28 days at Kwei-Chow although they were in the neighborhood for some seven months, but the boatmen were afraid to proceed having heard of the treatment my employees were receivingat the hands of the Tax Collector.

It is not necessary for me to deny to you the statement of the Vice Roy of Szchuen to the effect that the Chinese firms falsely assumed my firm name and thus fraudulently obtained Internal Passes, as you well

well know this could not be done, and besides, you are aware of the fact that I have been shipping foreign goods to Szchuen under transit Passes since your arrival at Hangkow some six years ago, and you know also I never had any trouble until last year when a combination seemed to have been formed by the various Lekin Officials for my ruin - As I mentioned before I visited Kwei-Chow during the month of January of the present year where I was enabled to procure information upon this case which I now propose to submit in detailed form for the information of His Excellency the minister.

On the 7th December last I addressed you asking you to procure for me a Passport from H. E. the Taotai, as well as a letter from that official to the officials at Kwei-Chow informing them of my intended visit to Szchuen, and that my business was to look after my goods that had been so long detained at that place.

J.

I informed you I intended to convey five boats that had left Hangkow some time before, and I may here mention that the goods contained in the boats referred to were included in the list furnished you in July last. You kindly procured for me two letters from the Taotai, one addressed to the Prefect, and one to the Internal Tax (or Lekin) officer, and also a passport stating the nature of my mission.

I left Hangkow on the 15th December 1874. and reached Kwei-Chow on the 6th January 7. 1875. On reaching that place I went to the house which I have had rented for the use of my Agent since the 12th June last. I was informed, I could not occupy the house as the owner had been arrested and warned by the Magestrate not to allow any Foreigners to occupy it if he did not wish to be severely punished. I asked if I would be allowed to stop at any other Chinese Inn. I was answerd that I would not be allowed to do

So

So unless the magestrate withdrew
the warning given in the latter part
of June that no one was to accommodate
Foreigners, especially those supposed
to be connected with the disreputed firm
of Smugglers know as Kung-tai (Chinese
name of my firm) I had at this time
paid rent on the house referred to
for seven month. I might mentioned
I continued to pay rent on this house
until the 5th Febuary of this year.

On the morning of the 7th January
I called at the Prefect office to request
an interview inorder to diliver the letter
I had for him from H.E. the Hankow Taotai.
I was informed that the Prefect was out.
I then asked if the person in charge of
the Prefect's office (During his absence)
would send word to the owner of the house
referred to above as having been rented
by me, giving him permission to allow me
to stop there, I was rudeby informed
that the magestrate had charge of such
matters in the city. After waiting nearly
six hours in hopes of being able to see

the

the Prefect on his return. I was asked to come in by one of the officials who I found to be the person in charge of the Customs (as a Commissioner or Deputy) I handed him my passport and told him I had a letter which I wished to deliver to the Prefect in person. He informed me that the Prefect would be busy for a day or so, but word would be sent to me when I could see him, I then informed him what I had told the doorkeeper, that I wished the owner of the house I had rented to be informed that I would be permitted to live there during my stay at Kwei-Chow fu. He also informed me this was the magestrate's business as he had control of the city, I then asked for a card to the magestrate, or a runner to go with me, as I feared the matter would not reconize me I having come on business connected with the Prefect's office and not the magestrates. He told to go to the magestrate nevertheless and if I did not obtain what

I

I wanted to return to the Custom House where the officer referred to was in Charge and he would see that if was all right

I acted on the advice of this Customs' Official, and on the morning of the 8th Jan. called on the magestrate at his office, sent in my passport, and asked permission to see him. He sent out and asked my business. I replied that I wished to pay my respect to H. E. and at the same time to ask that he would inform the Inn Keeper that if they put me up they would not be punished for so doing. The magestrates answer was significant "He would not trouble me to come in, and in regard to quarters, there would be no trouble so long as I paid the usual charges." I then sent word to the magestrate, reminding him that in June last he had ordered my Agent Lee to leave Kwei-Chow, and also that he informed the owner of the house I had rented under no circumstances would a Foreigner be permitted to live there, and that I could get

no

no place to stop unless he withdrew this restriction. He sent me word that "I could go where I like, it was none of his business" my going where I like meant simply living in one of my own boats from the 6th to the 23d January, as I could get no accommodation at the Inns in the place.

These were my first two days at Kwei-Chow, and I mention these insignificant details with such particularity in order to show you the animus and hatred that existed among the officials towards me and how determined they were to prevent my business trip from being in any way successful.

My next attempt was to secure the release of the boats containing the goods and the surrender of the Transit Passes held by the Lekin officer, as you are aware the Foatai had written a letter requesting the Lekin official to hand to me the Transit passes. I called at the Lekin office but was denied an audience with the officer in charge. I

Sent

sent the letter from the Hangkow Taotai to him and received a verbal reply that he had only taken charge of the office on the 5th January and that he knew nothing about the boats and cago. and also, that it was none of his business and he would have nothing to do with the matter; but as regards the five boats that came with me, he would clear them if the Customs did so first. I then went again to the Custom House to get the release permit of the five boats from that office, and in order to do so without futher loss of time. I concluded since I had waited for five days without being able to deliver the Hankow Taotai's letter to the Prefect, to hand it to the officer in Charge of the Customs who is a brother of the Prefect, I was promised an immediate reply to the Hankow Taotai's request for the release of my goods, but it was not forthcoming, on every day from the 9th to the 15th of January I was answerd that a reply would

be

be sent me but on the last named date I was abruptly informed that a reply had been sent, and that all official business received prompt attention at Kwei-Chow.

As I mentioned before the Customs would not take any action in reference to the release of the 23 boats, so I determined to try to induce the officials to permit the five 5 boats that I had brought with me to proceed. This they promised to do each day from the 8th to the 13th of January, but on the latter date I was told that the Transit Passes would not be surrendered until the local dues were paid.

During these days referred to up to the 13th of January. I frequently asked the Custom house official if he expected me to pay duty on the goods detained, and he always replied that he could not demand duty as the goods were travelling under Transit Pass. I reminded him of his repeated promises to release the goods and asked how

it

it was that he wanted the duty His only reply was that it was the orders of the Prefect.

Seeing that is useless to argue futher on the subject. I then asked for a duty memo with a view to the payment of the duty my reason for determining to pay the duty was simply to keep my boatmen who were in arrest from futher persecution and punishment.

The Custom house official refused to give that the duty memo unless some Chinaman would come forword and claim these goods and pay the duty. After various attemps to get the memo referred to without success. on the 20th January I succeeded in getting two of the Customs Banks to pay the duty for me (which was one half duty) amounting to Taels 625, and on the night of 22nd the boats, five in number, were allowed to proceed on their way to Chung King.

In this recital I have only spoken of the 5 boats that I found waiting just below the Kuei Chow Customs anchorage and which I conveyed to the anchorage

myself

myself. The good contained in the 23 boats which left Hankow during the months of December 1873. and beginning of 1874. I also found at Kwei-Chow. These boats arrived at Kwei Chow at the various dates stated in my claim for damages hereto annexed.

It was the boatman in these 23 boats, and others of my employees and the Chinese merchants from Chungking, that received such severe and brutal punishment of which I wrote you so often, during the year 1874. You yourself know, from information that reached you during your visit in the neighborhood of Kwei-Chow last July. to what severe extremes the Tax Collector went in inflicting his punishment upon most of the above mentioned persons.

It is not necessary for me to dwell upon the barbarities practised upon the boatmen and others, and I only mention them now in order to ask you to inform the minister that the punishment were inflicted in order to compel the people referred to make a statement to the

effect

effect that the goods were native owned and not any property. You also know what persecution they suffered rather than make such an acknowlegement. When the duty was paid on the goods conveyed in the 23 boats none of my men were present, but some 120 packages were taken from the boats and hypothcated to the banks in order to raise the amount illegally claimed for duty.

I might call your attention now to the merchants at Chungking whome the Tax Collector at Kwei-Chow had arrested and brought to Kwei-Chow. These people he had put in prison and unmerifully beaten from time to time in order to make them acknowledge that the goods belonged to them.

These merchants never ackowledged that the goods belonged to them, but their hands were held and they were made to sign certain bonds already written out that they would pay the

duty

duty. After these bonds were given the men were released and told they might go. This was in the latter part of November last.

On the 15th October I wrote informing you that I had written to my people at Kwei-Chow informing them to sign any thing the officials requested them to do in order to save them from futher persecution. A copy of this letter you informed me you sent forward to the Legation in your No. 306, of Oct. 28th 1874.

The letter from the Consulate No. 115 of October 20th which you informed me previous to your departure for Shanghai I could send to the Taotai, was touching upon this subject.

Returning to the subject of the 23 boats. As I said they were released in the month of November. I had sent word for them to remain at Kwei-Chow hoping that an official would be sent from Peking as per my various requests during 1874. in order

to

to examine into the amount of loss I had sustained on account of their long detention. No such Agent was sent so I found the boats at Kwei-Chow on my arrival there in January 1875, I would say I endeavored to get the officials to examine the above goods with a view to ascertain the amount of damages they had sustained by their long detention, but they would not accede to my request. The Lekin officials still detained the Transit passes and refused to surrender them, so I finally resolved to land the goods and place them in the hands of the officials and hold them responsible for the same. This I was unable to do as I could not get any one to carry them on shore. So finally, after days of worry and trouble, and after the officials had repeatedly threatened to arrest and punish the boat men with greater severity if possible than before if they did not leave the place, I was compelled to order them to proceed on their journey to Chung King with what few Transit

Passes

passes the Customs had surrendered.

The boats referred to left Kwei Chow between the 20th of January and the 20th of February. I left Kwei-Chow for Chung King on the 23d January and arrived there on the forth of February. My reasons for visiting Chung King was for the purpose of lodging a complaint with the Taotai at that place, to be forward to H. E. the viceroy of Szchuen, against the Tax officials at Kwei-Chow, but the doorkeepers would not take my petition in to the Taotai. I am of opinion that the reason why the Taotai at Chung-King did not wish to take the petition referred to was from the fact that he know it was an ugly case, and also that as the Lekin officers at Kwei-Chow was an intimate friend of the Vice Roy of Szchuen, it would not be to his interest to interfere in the matter.

I might mention that the treatment I received at the hands of the officials at Chung-King was very different to what I experienced at Kwei Chow.

At

At the former place every civility was shewn me, and when my goods arrived although the Kwei-Chow officials had retained most of the Transit passes, the goods were permitted to be landed without the payment of any Lekin Tax the officials knowing that they had been properly shipped under Transit Pass. I left Chung-King on the 18th of march.

In conclusion, I beg to inform you that I have suffered severe pecuniary loss at the hands of the officials at Kwei-Chow. and great interruption of my business and I now have to hand you a claim for the sum of Taels 78.457.45 - which I will thank you to forward to His Excellency the minister with the request that he present the same to the Chinese Government for payment.

I think there was a concerted plan on the part of all the officials at Kwei-Chow fu to interfere with and detain all goods passing that

Barrier

Barrier under Transit Passes: the prime mover in fact was the Customs officer at that place, and I was the person singled out on whome they tried their experiment.

I have not shipped any goods to Szchuen Since May 1874, and at present my Agents Tan and Lee are not permitted to live in Kwei-Chow-fu for which reason I continue to suffer pecuniary loss, I will therefore be glad if you will request the minister to take the proper steps, pending the statement of my claim, to have the authorities instruct the officials at Kwei-Chow-fu to permit my Agents Tan and Lee to return to that place, and also, give such instructions as will permit my goods travelling under Transit Passes to pass that station without detention

I am Sir.

Your Obedint Servant.

Mr. Andrew Jentains.

Copy.

Examination of Mr. A. Jenkins by R. Mr. Johnson U. S. Consul, held at the U.S. Consulate at Hankow on Monday the 14th day of June 1875.

Extract.

Q. In your letter to me above referred to, you state the goods so long detained at Kiyei Chow fu were your property: Is that statement true.
Ans. Yes Sir.
Q. What do you mean when you say the goods were your property.
Ans. I had complete control of them. I owned the controlling interest in them.
Q. On that point I can answer the Minister definitely then, you had entire control of the goods.
Ans. Yes. If I did not how could I govern their movements.

Copy.

Legation of the United States.
Peking, July 7th, 1875.

R. H. Johnson, Esq.
U. S. Consul,
Hankow.

Sir:

Your No. 358. of June 15th, with inclosures, referring to the detention of foreign goods, claimed by Mr. Jenkins, by the officials at River Chow fu, during last year, and submitting his claim against the Chinese Government to the amount of taels 78.457,45 came duly to hand, and has had my careful consideration.

I am obliged to say that, after several perusals of the "examination" of Mr. Jenkins by you, the evidence therein as to the ownership of the goods is not clear and satisfactory. If Mr. Jenkins was not, as he admits he was not, sole owner of the goods, somebody else owned part of them, and it is to be presumed that the

co owners

coowners were Chinese. In this case the native interest in the property, although it was quite under the "control" of Mr. Jenkins, would invalidate the claim for exemption of all the goods from Lekin, on the ground of foreign ownership. The evidence leads me to guess that the goods were sold to natives to be delivered, and were in transit for delivery.

While Mr. Jenkins says, variously, that the goods were his property that he "had complete control of them", and that he "owned the controlling interest in them, he also sets up that if they were all native owned they were still exempt from the Lekin tax after having paid the transit dues, and cites in defense of this position, the 28th Article of the British Treaty. As a matter of fact, this exemption does not extend to native owned goods. Whatever was the intention of those who

who made the Treaty, the common practice, so far as I can ascertain, is to regard and treat foreign goods, after the ownership passes to native hands, as subject to Lekin at the barriers. I would be glad if the Chinese Government could be brought to concede the freedom of foreign goods from this impost, irrespective of ownership, and believe that both foreign and native interests would be promoted by removing this burden on commerce. but it is useless for this Legation to raise the question alone, and, were it possible for me to obtain a settlement of it unaided, such settlement could not be made to have a retroactive effect, for the adjustment of claims arising in the past. Even by the joint action of all the treaty representatives, it will be a very difficult thing to persuade the Chinese to our view of this subject, unless, on some occasion of treaty revision, we

are

are prepared to offer them some compensative advantage for the relinquishment of what they regard as an important and rightful source of revenue.

The communication from the Tsung li Yamen, of which you send me a translation, seems to me to reserve the right to levy the Octroi at the barriers on native owned goods. It significantly states that the "proclamation of the British Minister in regard to the above Article of the Treaty" refers exclusively to foreign "merchants entering the interior and "selling foreign goods themselves." The Nanking Treaty clearly and explicitly identified the exemption with the goods irrespective of ownership. The Tientsin Treaty, unfortunately does not, and hence all the trouble. In any case, however, it is hardly competent for Mr. Jenkins to shift his ground of defence from an assertion of foreign ownership, to one of exemption, irrespective

irrespective of ownership. One position or the other is untenable, and must be abandoned. If he cannot prove the former, I cannot maintain the latter, solely for his benefit, however much I would like, on general principles, to maintain it.

Again, if the evidence as to the ownership of the goods were clear, the particulars of his claim for damages are open to criticism. Some of the charges appear to me rather speculative than exact. I cannot go into detail, but may mention the charges for expenses of his agents, which appear to me, and would surely be thought by the Chinese Ministers, disproportioned to the ostensible service. Thus "for "the sending" of Mr. Rhode to Kwei Chow "to look after my interest, salary, &c" taels 1500 is charged, whereas, according to the correspondence, Mr. Rhode was absent only six weeks.

Interest

Interest is charged on taels 139,
001,26, the value of the goods detained
for eleven months at 1¼ % per
month, or say 15 % per annum.
This is far in excess of the usual
interest in China, and makes
a large share of the whole account.
Then nearly 6000 taels is charged
in behalf of certain Chinese, as a
sort of indemnity for losses and
annoyances to which they were
subjected by Chinese officials. As
it does not appear that this money
was paid out by Sir Jenkins, the
claim stating the items together, is
one of Chinese subjects against
their own Government, which this
Legation has no right to present.
Such uncertainty attends the efforts
to collect any claims of our citizens
from this Government, that no
items which are not clearly just,
and no speculative estimates, should
be included.

In rebuttal of the voluminous
testimony

testimony sent to me by the Tsung li Yamen, to prove the native ownership of the goods claimed by Mr. Jenkins, that gentleman simply offers his single assertion of its falsity, and nowhere he admits that such evidence was really given, says it was extracted by cruel imprisonment and torture. Yet some of the evidence was that of letters freely written by Chinese merchants, and intercepted by the officials, which no effort is made to disprove, although the authors of them are presumably still accessible in Hankow, or elsewhere. According to our ideas, very little, if any value attaches to testimony obtained by torture, but testimony procured in this way is a part of Chinese judicature, and it is useless to expect them to regard it as we do, or to throw it aside as having no bearing in a given case, on the unsupported

word

word of a foreign contestant, who has a large personal interest in denying it. In saying this, I have no intention of impugning the good faith of Mr. Jenkins. I wish only to present frankly the practical difficulties in the way of his appeal to the Peking Authorities.

Mr. Jenkins is on record as having humanely advised his boatmen to confess anything to save themselves, and as having offered, at one stage of the difficulty, to pay the Lekin in order to free his goods. These facts do not, necessarily, in my opinion, show that the goods were not his own property, but they would so make against his case with this Government that to present it would probably be only to invite its rejection.

You advise me that the Tsung li Yamen have ordered the payment of the claim of an English

Ferm

firm at Hankow, for the detention of their goods at Kwei Chow Fu during last year. This may be so, but I have no knowledge that the circumstances are the same as in the case you have presented.

In conclusion I am sorry to have to say, that, while I have no doubt there are real hardships in Mr. Jenkins case, and while I am anxious he should have what relief he may be fairly entitled to, there are such elements of uncertainty in his claim that I am convinced its presentation to the Tsung li Yamen would result in its repudiation.

I am &c.

(Signed) Benj. P. Avery.

Copy

Hankow, April 29th, 1876

Honorable George F. Seward.
United States Minister.
Peking.

Sir:-

I beg to address Your Excellency with regard to my claim against the Chinese Government, forwarded to Mr. Johnson in June 1875, and to ask that you will bring it to the notice of the Foreign Board.

I would also inform you that the claim made by the English firm of Messrs. Major & Smith of this port for damages sustained by the detention of goods at the Kweichow Barrier has been settled, payable on the 3th of next month, and the claim of the French firm of Messrs. Hachtrieb, Leroy & Co. has been adjusted, and I am informed it is to be paid shortly. The boats of these two firms were detained with mine for about two months, and released without any examination as

to

to ownership, nor were the boatmen examined, much less tortured, while my boatmen were put to all sorts of torture to make them sign declarations of native ownership. I would state for your information that the deputy who caused the detention of goods at Kiuei chow, has been in Hankow for over three months arranging the claims of the English and French firms, and he is expected to remain here for a month, and would ask that you will request the Foreign Board to instruct H. E. the Viceroy of this place to order the deputy, together with the Hankow Taotai, to arrange my claim for goods detained at Kiuei chow.

I am at a loss to know why the two firms, engaged in the same business as myself, whose claims are identical with my own, should be thus satisfactorily settled, without any examination, or the least harm to their native servants employed

employed by them, while the men whom I employed were punished worse than highway men should have been. Now, as the claims of the English and French firms are settled, and will in a few days be made public, and no steps taken to place me on the same footing, it will be impossible for me to continue in business, as no natives which I engage will be safe, as, on the same plea advanced at Tweichow, they can have any of my servants arrested. So I trust you will kindly give this your serious and early attention.

I am &c

(Signed) M. A. Jenkins.

Copy.

United States Consulate
Hankow. May 9th, 1876.

Honorable George F. Seward.
United States Minister
Peking.

Sir:

I have the honor to inform you that the claim presented to the Chinese Government by the English firm of Mayor & Smith for detention of their goods by the officials at Kiwei Chow tax station, during the years 1874 and 1875, which were shipped under transit passes to the interior, has been settled. Messrs. Mayor & Smith's claim was for Taels 23.705,95; and on the 8th instant they received Taels 12.000 as payment in full.

I also understand that the French firm, which had a like claim, has been settled with under similar circumstances, with a reduction at about the same rate.

I am, &c

(Signed) R. M. Johnson

Confidential. 14.

Copy.

United States Consulate
Hankow, June 12. 1876.

Honorable George F. Seward
United States Minister,
Peking.

Sir:-

I take advantage of this early opportunity to inform Your Excellency that information from a reliable source reaches me to day to the effect that the French Minister has declined to accept the settlement made by the Chinese Authorities with the French firm for illegal detention of the latters goods, at the Kiwei Chow fu tax station during 1874. and 1875.

I informed you of the terms of settlement of the claim referred to in my No. 4 & 6 of 9th May last.

The above information may have reached you before this time, but I consider it my duty to communicate the same to you as

there

there is an American claim
before the Legation not unlike the
French claim referred to.

I have &c

(Signed) R. W. Johnson

Despatch No. 115
Inclosure 2.

Copy.

United States Legation
Peking, July 16th, 1876.

R. M. Johnson, Esq.
U.S. Consul
Hankow.

Sir:—

Having reference to Mr. Andrew Jenkins large claim for the detention of certain goods at Kwei Chow in 1874, I beg leave to request you to ask him:—

1st. Were you the sole and complete owner of the goods in question?

2nd. If not, had you an original and proprietary interest in them and if so what interest?

3rd. If you had no proprietary interest in them or any of them, what was your concern in them, and for what purpose did you take out the transit passes covering them?

These questions are intended to elicit the facts in regard to his ownership

ownership or concern in the goods. He should make such responses as will leave me in no doubt in regard to them.

If the goods did not belong to him, or belonged to him only in part, you will please ask him further:—

1st. Under what provision of the treaties, or of the regulations made in pursuance of the Treaties, he takes out passes for goods not his own?

2nd. Having taken out the passes and losses having occurred by the acts of the Chinese Officials at Kwei Chow, by what reasoning can I support his claim for indemnity for the goods which were not his own?

3rd. Having taken an adventure with Chinese (if such be the case) in what way can I separate his interest from that of the Chinese, in order, if this course be decided upon

upon, to secure indemnity for
his own proper losses.
4th. The facts and arguments
of and for his case being declared,
can he supply me with detailed
and exact information of
any other case or cases of an
identical sort, which have
been settled in such manner
as to afford precedent for the
action desired by him.

It is my earnest desire
to give all right defense and
protection to the trading
interests of our people, and I
make this communication to
you, lest I may possibly overlook
some of the points or principles
concerned in the given matter.

I am &c

(Signed) George F. Seward

Mr. Berdan

Ack Sept 18-

No. 116. One Enclosure

United States Legation,
Peking, July 26th, 1876.

George F. Seward to
the Secretary of State.

Subject:
Protection of Wrecks.

Synopsis.
Forwards printed pamphlet containing Rules in English and Chinese. The Rules have not been promulgated by Chinese Authorities at Shanghai.

No 116. One Enclosure.

United States Legation,

Peking, July 26th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:-

I have the honor to inclose to you herewith a copy, in English and Chinese, of the "Rules for the Protection of "Shipwrecked Persons and "Property" as printed by my order for the information of our Consuls. No 116.

The Consul General informs me that he has not been able to learn that the Chinese Authorities have promulgated

promulgated the Rules in the Shanghai district. None of the other Consuls have reported to me upon the subject.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward.

Enclosure.

1. Printed copy of Rules for the protection of shipwrecked persons and property.

FIVE RULES

FOR THE

Protection of Shipwrecked Persons and Property.

ENGLISH TEXT.

RULE I.

Division of Coast into Districts, and Assignment of Officers to Each.

The great number of islands, and the irregular contour of the coast, tending to produce an evasion of responsibility, without clearly established district limits, the magistrates and local authorities, now holding office in proximity to the coast, will, in concert with the officers in command of the various camps and outposts, divide the territory within their jurisdiction into districts of ten *li* each.

They will cause the elders and literati, in each district, to nominate a watchman, and on each island, they will nominate an overseer, whose names must be registered, in order that they may be held responsible.

All craft, whether Chinese or foreign, in distress, or in any sort of danger, will hoist a white flag by day, or two lanterns at her mast head at night, as a signal for assistance.

The inhabitants on shore or any fishermen who may see either of these signals, will, at once, inform the local watchman or

今將奉
旨保護沿海船隻章程開列於左

一定地段以專責成也查沿海島嶼星羅犬牙交錯非明定界址必致彼此推諉茲責成沿海廳縣會同營汛定明所轄界限每十里爲一段飭令就近公正紳耆保舉地甲一人其島嶼則保舉耆老頭目一名列名册報以專責成凡遇中外船隻漂撞礁淺一切危險本船日則高掛白旗夜則接懸兩燈以示求救在地之居民漁戶人等見有此等旗燈即時首報地甲

overseer, who, on his part, will, with all speed, notify the civil and military authorities, and summon all available men and boats to the rescue.

The civil and military officials, on receipt of the information, will proceed at once in person to the spot, taking a sufficient number of soldiers and policemen, and superintend the measures of relief. They will not allow the least tardiness or delay. All expenses for messengers will be repaid by the captain of the ship in distress, but policemen will refrain from all extortionate charges.

Rule II.

Rewards and Punishments, for the Avoidance of Inaction.

In case the civil and military authorities afford relief to a vessel having cargo, valued at more than ten thousand taels, and save more than ten men, either Chinese or foreigners, their superior officers, on investigation, will report the case, and the Consul will also communicate with the Customs Tao-tai. The provincial Treasurer will make a suitable record of the merit of each officer concerned, against his name in the official register. Those who have obtained more than three records of this sort, will be reported to their superior, civil or military, officers for further rewards, and when more than five records have been obtained, the proper Board will be requested to grant promotion.

頭目一面飛報文武汛官一面酌量夫船數目集腋助救其文武汛官聞報後亦即督率兵役親往勘驗救護不得稍有遲誤其往來報信之人一切費用均由失事船主給還惟官役不得勒索使費

一明賞罰以免推諉也查沿海文武汛官如有救護船貨至一萬兩以上中外人等救至十名以上者一經該管上司查明申報及領事官照會關道有案藩司立即註册記功三功以上者文武汛官詳請酌記外獎五功以上者分別詳請

The services of the watchmen and overseers shall also be rewarded according to the grade of their merit, either by granting them official rank, or an honorary tablet, in order to stimulate them to greater exertions.

In case officers, civil or military, are unwilling to put forth effort in these cases, they will be dealt with, and if watchmen or overseers make no exertion to rescue those in distress, they will be severly punished according to their crime.

He who, seeing a ship in distress, first gives notice to the watchman, or overseer, and to the local authorities, shall be held to be the first informant, and, as a reward, shall receive from the Captain of the ship concerned, for large ships, not to exceed thirty taels, and for medium and small craft, not less than ten taels.

RULE III.

For the Prevention of Confusion and Disorder.

When a vessel is in distress, but still under control of her crew, and her captain does not wish other persons to go on board, rescuers will not in that event force themselves on board the ship.

In case the Captain desires assistance, all persons rendering it, will be subject to his orders, as to whether efforts shall first be

題升以示優獎其地甲頭目亦分別上次勞績隨時賞給頂戴扁額以昭激勸倘文武汎官不肯認眞辦理照例參懲地甲頭目若有救援不力甚至希冀分肥者分別輕重嚴究至於望見船隻危險首先報知地甲頭目及文武汎官者以初報之人爲首功由失事船主給予花紅大船多至三十兩中小船以十兩爲度一定章程以免混亂也凡遇險船隻其力尚可自存船主並不願他人上船者則救援之人自不得混行上船倘船主須人援救或係應先救船或係應先救貨

made to save ship, or cargo, or the lives of those on board, and may not conduct themselves according to their own pleasure. The Captain's orders also will be decisive as to storage of all cargo saved. In case any persons remove anything from the ship by violence, or by stealth, the Captain, or the watchman and overseer will inform the local authorities, who, upon sufficient proof, will take measures to recover the property, and punish the offenders.

He who gives correct information in regard to this class of property shall be rewarded, according to the rule for rewards, (the following). He who gives false information, shall be punished as if himself guilty of the offense.

Rule IV.

Rewards for Efforts Made at Rescue.

All cargo saved shall be inventoried by the authorities. If ship and cargo are foreign owned, the nearest Consul shall be notified, that he may be enabled to assist in the valuation of the cargo. The rewards will be estimated according to the efforts put forth by the salvors, and the nature of their operations, but shall not exceed one third the value of the property saved. If goods, but no lives have been saved, the nearest local and Con-

或係應先救人均聽船主指揮不得自行動手救起貨物應寄頓何處亦由船主作主其有擅行搬取或私自藏匿者一經船主及地甲頭目指明查有確據者卽行由官追究治罪倘有人出首確鑿者亦賞以應賞之欵誣捏者不准幷行反坐

一定酬勞以資鼓勵也凡救起之貨須候文武汛官驗報如係外國船貨則幷報明附近領事官會同查核將貨估價按照出入多寡難易抽撥充賞多至三分之一以賞救援之人若有貨無人則須稟明就近地

sular authorities must be notified, in order to distribute rewards among the salvors out of the cargo rescued.

If life, but no cargo, has been saved, still the persons, whether Chinese or foreign, must be rescued, and, having been clothed and fed, must be handed over to the nearest local or Consular authorities, to be sent to their homes, by some ship.

If there are foreigners not under any Consular jurisdiction, let the matter be reported to the Trade Committee, who will provide means, and cause them to be returned to their native land.

In case boatmen have put forth effort to save life, and the persons saved have no means of rewarding them, the local authorities may be petitioned to reward the boatmen to the amount of ten dollars for each life saved. Monthly returns of all such payments will be made by the local authorities to the Trade Committee, by whom the amounts will be refunded. False entries will be severely punished.

When wind and waves are so violent that human power is unequal to the combat, or the ship cannot be reached and rescue effected—in such cases, let the Decree of Heaven be submitted to, and allow no idle accusations to be raised.

方官及領事官秉公將貨酌賞倘無貨有人則須將人救護無論中國外國之人均先行給以衣食就近送交地方官領事官妥給船夫分別資送回藉倘係外國人無領事可交者即報明通商局資給盤川俾令自行回國其小船出力救護者倘本人無力可以酬謝者即就近稟報地方官小船每救人一名賞給洋銀十元就近由地方官先行核給按月彙報通商局撥還虛揑者嚴究至遇風濤洶湧人力難施或在大洋爲救援所不及者均宜各安天命不得任意株

Rule V.

On the Promulgation of the Foregoing Rules.

Inasmuch as the ignorant classes, who dwell on the sea coast, do not know that those who afford assistance to ships are rewarded, and those who withhold it are punished, and hence, mainly for this reason, they either make no effort in cases of this kind, or even seize the opportunity for plunder;

Therefore all civil and military officers along the coast, shall communicate the foregoing Rules to commanders of garrisons and outposts, who shall thoroughly warn all persons in their districts.

Further, the Rules shall be inscribed upon wooden tablets, and suspended where fishermen and uneducated persons, may all see them, and so learn that it is a meritorious act to render aid to vessels in distress, and a crime to refuse it. Thus the idea of assisting vessels will enter the minds of all men, and none will longer regard it as unimportant.

連

一廣曉諭以資勸誡也凡海濱愚民皆緣不知救援之有賞不救船之有罰是以坐視不救或致乘機搶奪此後所有沿海文武各官均宜將以上告示條規分別札行各汛嚴加告誡並將告示條規書寫木牌遍處懸掛使一切漁戶愚人皆知遇險之船救護爲有功不救護爲有罪庶人人有救船之念在其胸中不致視爲無足重輕之舉矣

以上章程係

大清欽命總理各國事務衙門具奏請
飭各省一體遵行光緒二年五月初四日奉
旨依議欽此

Mr Borden.

Mr Bush's bond was approved 7th instant, and his certificate of appointment sent to Minister 8th instant, as appears by the records.

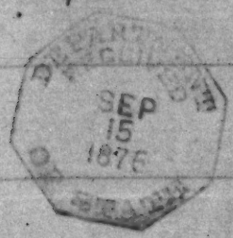
A. W. Clement

16th Sept. 76.

Will be sent on thirty.

Mr. Bingham

No. 117.



United States Legation
Peking, July 28th, 1876.

George F. Seward to
the Secretary of State

Subject
The Consul at Hankow.

Synopsis.
Has left his post. It is not known here that the Vice Consul has executed a bond. Reference made to Shanghai on this point. Recalls attention to the need of authorizing the Consul General or Minister to approve bonds of Vice Consuls.

No. 117.

United States Legation.

Peking, July 28th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:—

The Consul at Hankow advises me, under date of July 17th, that he has transferred the office to Mr. Bush as Vice Consul.

I have received from Mr. Johnson a copy of Mr. Cadwalader's despatch to him, number 103. from which it appears that the nomination of Mr. Bush was approved, but I have not received any intimation that the latter has filed a bond.

S

I have accordingly written to the Consul General inquiring as to this.

I represented to you in my number 81, the propriety of granting to the Consul General or myself the authority to approve bonds, and stated that until your instructions were received, I should proceed as if vested with this authority.

I have the honor to be,

Sir,

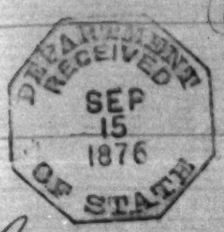
Your obedient servant

Geo. F. Seward.

Mr. ~~Clements~~ Berdan

~~No 14~~ No 11 Ack'd & referred to instruction No 74. Sept 18.

No 118. One Enclosure.



United States Legation

Peking, July 28th, 1876

George F. Seward to

the Secretary of State.

Subject

The passport question.

Synopsis.

Says that the really important question is whether Consuls can join in issuing passports, and gives the reasons. If this be settled affirmatively the matter of Ministers passports for travel in China can be more easily dealt with. Repeats

request

request for instructions.

No 118. An Enclosure.

United States Legation.

Peking, July 28th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:—

It seems desirable to recur again to the matter of passports dealt with in my despatch number 110.

The really important question at the moment is whether the peculiar passports provided for in the Treaties with China, they being a point issue of the Consular and Local Authorities, can be granted by our Consuls in view of the stringent provisions

of

of our laws.

I do not hesitate to express my opinion that these documents are very different from those for instance which are issued by the Department. The principle which justifies the issue of the latter, and which makes the stringency of our laws appropriate and necessary, is this: "The citizens "of friendly Powers require no "passports saving those delivered "to them by the competent Authority "of their Government." But China does not now, and never has recognized this principle. As a result of war, she has agreed that foreigners may travel within her borders, provided they

they hold passports granted by their Consuls, and countersigned by the Local Authorities. The Treaty provision really comes to this: the foreign Powers have demanded and China has consented that their Local Authorities shall grant passports to all foreigners for whom their Consuls ask such passports. It is the seal and authority of the native Magistrate which gives effect to the paper, and not at all any consent to, or respect for the general principle which I have stated.

It will occur to you that if this be the case, it will be

be as well to completely avoid the question by making the passport the issue in form, as well as in substance, of the local Magistrates. But this will not do, because they will take this as an admission that they have a discretion in regard to issuing such documents, and will at once hamper them with conditions and restrictions, which will, more or less, invalidate their character. As matters stand now, when an obstructive Magistrate refuses to put his seal on a passport, or demands that unusual conditions shall attach to it, the Consul simply says "Very well, I cannot "assent to your proposition, and so

"so I will issue the pass myself
"and if harm comes to the holder
"because you decline to seal it,
"the fault will be yours." And the
argument, if it can be called
an argument, invariably brings
the Magistrate back to a more
reasonable conception of his
duty.

If you decide against my
view the result will be such
as I stated in my previous
letter. Great inconvenience will
be caused to our people resident
at the ports. Travelers often will
be unable to go into the country
because they cannot wait the
month or six weeks which the
application to Peking from
Shanghai

Shanghai or Canton would involve. Perhaps if provided with your passports these could be endorsed by the Local Authorities and made to answer, but it is doubtful whether, as the Treaties look to Consular passports only, the Authorities would not raise objection to sealing those of another sort. Without their seals, they would, of course, be useless.

If you decide in favor of my view, then the position here at Peking, would be made easier again. The Treaties contain no provision for Ministerial passports. As a consequence when we propose to issue them

here

here, or when we call upon the Government to issue them, we must be content to submit to such conditions as they may see fit to impose. But if we have the right to take out passports at the Consulates, we can fall back upon this right, if the conditions made here are unsatisfactory, and say that we will forego asking for Imperial passports, or the visé of the Foreign Office until they deal with the matter in a way more conformable to Western usages.

I inclose a note of the interview which I have had with the Foreign Office on this subject. I may not carry the matter 1/118

matter further until I receive your instructions. It may be desirable, however, to make a negotiation with the Foreign Office without delay, in order to secure the best terms possible, lest, in case your instructions be to the effect that Consuls cannot pursue the practice heretofore followed, we be obliged to accept, at once, such conditions as the Government may impose.

I have the honor to be,
Sir,
Your obedient servant.
Wash F. Seward.

Enclosure

Enclosure.

Minute of an interview with the Foreign Office upon the passport question.

Despatch No. 118.

Enclosure

Passports.

Memorandum of an interview at the Foreign Office, July 18th 1876.

Present Shen, Tung, Hsu Cheng Chung, and Hsia.

Mr. Seward submitted the form of the passport which he had drawn up and said that it conformed to those issued by his Government, and the Governments of Western States generally.

It was objected that it provided for travel generally throughout the Empire. Mr. Seward responded that in the West passports are issued for not only all of any given country, but for all countries. In America no passports are required. What was the proposal of the Ministers on this point. The response indicated that it was necessary to know where the traveler would go so that

instructions

instructions to care for him could be sent to Provincial Officers. Mr. Seward said to this that the traveler could not always tell where he would go, that sometimes he would make several journeys in different directions, and that notice to Provincial Authorities to observe and respect all passports would dispense with the need to send them special orders in given cases.

Another question came up as to whether the Yamen seal should be affixed to the passports issued by the Legation. The Yamen thought that the Peking Prefect's seal would answer. Mr. Seward pointed out that the Prefect is a local officer of low grade, and that it could not be considered courteous to the Legation to provide that his seal should be used. Consular passports are sealed by the

Intendants

Intendants, who are the superiors in rank of the Prefect.

As the hour had become late the business was left at this stage, to be further discussed at an early day.

G. F. S.

Peking July 19. 1876

Mr. Berdan

Amend as per draft Sept 21.

No 119. Two Enclosures.

United States Legation
Peking, July 29th 1876

George F. Seward to
the Secretary of State

Subject.

The Hill-Takee case.

Synopsis.

Mr. Seward has had two interviews with the Foreign Office and sends notes of same. The Ministers insist upon referring the matter to Hankow. This course unsatisfactory. Mr. Seward recites the difficulties attending

attending the prosecution of
debts in China.

No. 119. Two Enclosures.

United States Legation

Peking, July 29th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:—

I have the honor to hand to you herewith the notes of two interviews which I have had with the Foreign Office in regard to the Hill-Taker case. 1/2/119

You will see that the Ministers have insisted upon referring it to the Viceroy at Kaukiang. Their proposal looked to this reference as a finality, but I refused to assent to this, and after much argument, they declared, substantially

substantially, that the final determination of the matter rests with the Foreign Office.

You will understand the difficulties which attend efforts to secure justice for our countrymen in China, from what I have heretofore written to the Department, more particularly in any Trade Report of last year, and in my notes on the revision of the German Treaty. This case from its inception furnishes an adequate commentary on my statements.

I have had, in dealing with it, to create a Court of first instance. It was only after much urgent pressure that I

I could get the Taotai Shen, and his successor Fêng to hear it. If the original defendant had been living, I could not have got it into Court at all, because he was an Official, and no one at Shanghai had authority to entertain an action against him. Upon the trial at Shanghai, I had to take measures to secure a record, both in English and in Chinese. The minutes which Chinese Magistrates take are meager in the extreme, and practically useless for purposes of appeal. To verify the record I had no recourse, but to submit it to the Counsel for the

the two parties. Counsel are not permitted to appear in Chinese Courts proper, and it was in deference to my wish that they were allowed in this case. After the case was heard, I was six months in drawing from the Magistrate a judgment, and then it was unfavorable. To complete the chapter of difficulties, I am told upon presenting the case here that it must be referred to a Provincial Officer, and that his decision will be final, and it is only after protracted argument that I am able to show the Ministers that such a reference is unnecessary and unsatisfactory

unsatisfactory, and am
obliged, after all, to assent to the
form.

From the beginning to the
end of this case, so far, there
has not been shown by any
Chinese Official to whom it
has been presented any desire
to get at the facts, and to do
justice. It is not too much to
say that this is the case in
nine out of ten of the more
difficult matters presented
to the Chinese. Success in
defending our country people
against wrongs here can only
be attained by the most
painstaking, careful, and
patiently persistent effort. As

a

a school for patience, I should pronounce this field of official effort quite unrivaled.

In my despatch number 108 I asked your instructions in regard to this matter. I anticipated then that delays would occur, which would enable me to receive your advice before the case could be brought to a head. The reference to the viceroy renders this quite certain.

I have the honor to be, Sir, Your obedient servant.

Geo. F. Seward.

Enclosures

1. 2. Two notes of conversations with the Yamen, in Kiu is Taken.

Despatch No. 119.
Enclosure 1.

Hill vs. Lakee's Estate.

Memorandum of an interview regarding this matter between the U. S. Minister, and the members of the Foreign Office, Shen, Tsung, Mao, Chung, Chêng, and Hsia, at the Foreign Office July 18th, 1876.

Mr. Seward asked whether the Ministers had examined the Minutes of the Court which he had sent to them. They said they had done so. Mr. Seward said that the Petitioner is dissatisfied with the judgement, and that, in his opinion it is not a just decision. His only course was to ask them to discuss the whole matter with him, and to send orders to Shanghai to enforce the payment of Wells just dues. Shen asked if the Taotais Shen and Feng had not decided against Hill. Mr. Seward said they had. The question was whether

they

they had duly weighed the evidence. It was all in the book before them. So satisfied was Mr. Seward of the merits of Hills claim that he would not hesitate, if the Ministers wished, to submit the evidence to his Colleagues the Ministers of other Governments, or to any of them, and to abide by their opinion.

One of the Ministers suggested that there was no proof of the merits of the claim. To this Mr. Seward responded that he was willing to take the evidence and go over it step by step. If the Ministers had not examined the case as it was evident they had not, they should not say there was no proof.

As much time had been consumed in this discussion and the discussion of another matter, Mr. Seward then said that he would visit the Yamen again soon

soon to speak further about the case.

G. F. S.

Peking July 19th, 1876.

Despatch No. 119.
Inclosure 2.

Hill vs. Lakee

Minute of an interview between Mr. Seward and the Foreign Office, July 27th 1876. Present Shen Tung, Hsiao Cheng Cheng, and Hsia.

After desultory conversation Mr. Seward said that he had come to discuss the Hill-Lakee case, and asked whether the Ministers had examined the Record. They intimated that they had done so. Mr. Seward then asked whether they were in doubt as to the merit of the claim. To this Shen responded that there was no proof that the steamer had been chartered, and another Minister said that, if chartered, the charter money no doubt had been paid. To this Mr. Seward responded that the Record contained ample evidence that the vessel had been chartered and Mr. Hills sworn declaration that the charter money had not been paid. If it had been discharged the defendants would have produced

the

the defendants would have produced the evidence of the payments made Lung then detailed, at much length the procedure in regard to accounts against the Government, how they must be approved by certain Local Officials endorsed by the Viceroy and sent up to the appropriate Board, etc. To this Mr. Seward responded that while the steamer had undoubtedly been used for military purposes the charterer was being dealt with as a private person. It was no matter of concern to the claimant how the charterer should get his money from the Government. As, however, the vessel had been used by the Government under charter made by an Officer of the Government, the claim might become one against the Government if they should fail to enforce payment by the defendant.

Hereon one of the Ministers said that the affair was a local one at Shanghai, and should be settled

there

there. and that now Lakee is dead it will be difficult to get at the facts. Mr Seward responded that long continued and earnest efforts, culminating in the trial at Shanghai, had been made there to settle the case, without effect, and while he was sorry to trouble the Ministers, he had yet recourse but to come before them.

At this point a conversation was held between the Ministers after which Shen said that they would have to refer the matter to the Viceroy at Nanking. Mr Seward responded to this that the evidence was all before the Ministers, and it is for them to decide what is to be done with the case. The Viceroy has not been named as an Officer who has appellate judicial powers, and he is not within the reach of the Claimant, while he is approachable by the Defendants. It is a case in which reference

to

to the Viceroy is unnecessary in every way, and against which course many weighty objections may be urged.

To this Chung How said that the Ministers should remember that the methods of Government in China are all determined and that it is difficult to vary from them. The reference to banking must be made, not to put off the case, but because it is the usual course of business. To this Mr. Seward said "What then are the "functions of the Viceroy? Does he "decide the case?" Ching answered "Yes." "And if his decision be "unsatisfactory?" "Then there is "no recourse." was the prompt and positive response.

Here Mr. Seward urged that he could not assent to this. It would be very wrong for him to relegate the case of his countrymen to a Magistrate who would certainly

hear

hear the statements of the Defendant, and who cannot be approached by the Claimants with whom the Minister himself has no relations. And knowing very well that there is no rule of the Chinese system which establishes the Viceroy a final Arbiter in the lawsuits of his own countrymen, and strongly impressed with the danger of admitting him in such capacity in cases in which foreigners are the parties claiming, he pressed the point closely and finally secured from the Ministers a reversal of things dictum. Believing however that to persistently refuse to assent to any reference to the Viceroy would afford the Ministers an opportunity to declare that they could proceed in no other way, he told them that while he objected on principle to the reference, he would assent to it, provided it was clearly

understood

understood that the Viceroys conclusions are not to be considered binding upon the Minister in any way, that in fact the Foreign Office sought it only to assure themselves that the Defendant had had an opportunity to make his case, and for the benefit of the Viceroys judgment. Their response to this was not so clear as the Minister wished, and he said "who then am I to consider the "principal in this negotiation, "yourselves or the Viceroy". "Is he or "is he not your superior." To this the answer came "Why, of course, "no one is superior to the Prince", meaning Prince Kung who is at the head of the Foreign Ministers.

Mr. Seward then said that he would be obliged if they would at once take the Viceroys opinion, and asked them to remember, in sending the papers to him that the case had been tried in open Court,

and

and a Record made which Record was before them; that the propriety under these circumstances of his taking further evidence was not manifest, that if he did so, it would be objected to when sent back as it [illegible], and also that he held to the point that the case is an international one and in the absence of all rules for the hearing of appeals in such cases, he must look to the Government itself to see justice done.

The conversation did not reach the merits of the case although it was extended through two hours and a half.

G. F. S.

Peking, July 27th, 1876

File

Feb 7 76.

Mr. Bordan
Col. Morgan
answered Nov 22.
Report attached

No. 120. Two Enclosures.

United States Legation
Peking, July 29th, 1876.

George F. Seward. to
the Secretary of State.

Subject

Contingent Expense Account.

Synopsis.

Forwards account for the fiscal year, with vouchers. also an account for Mr. Holcombe's services during Mr. Williams recent absence in America, and states the facts involved.

No. 120. Two Enclosures.

United States Legation,
Peking July 20th, 1876.

Honorable Hamilton Fish.
Secretary of State.

Sir:—

I have the honor to hand to you herewith an account for the Contingent Expenses of this Legation for the year ended June 30th last. Some of the accounts were contracted during Mr. Avery's charge of the Office, but he had made no payments. My account therefore covers the year. With the accounts I have sent full vouchers.

By Mr. Williams regret

I

I send to you an account for Mr. Holcombe's services as Secretary and Interpreter from the 1st of July 1875 to May 5th, 1876. Mr. Williams was absent during this period. He actually left China in April 1875, and reached Shanghai on the date stated. He is, to my knowledge bound to Mr. Holcombe to pay him for his services from the date when he left here until his return. By regulations, Mr. Williams is entitled to draw pay for a part of his absence. He is not obliged, I believe, to supply his place during his absence.

Under these circumstances, it appears

appears right that the "
Government should pay what
is due Mr. Holcombe. Mr.
Williams place could not
have been supplied at a
less rate.

Mr. Williams has told
me that he spoke of this "
matter when at Washington.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward.
"

Enclosures.

1. Contingent Account for 1875-76. Ans'd.
2. Bill for Mr. Holcombe's services
as Secretary and Interpreter
from July 1st 1875 to May 5th 1876.

Despatch 120.
Enclosure 2.

Peking, June 1st, 1876.

The United States Legation

To Chester Holcombe Esq.

To services as Secretary and Chinese Interpreter of the Legation from July 1st 1875 to May 5th 1876. being ten 5/30 months at Mex. $250 per month, $2541.66/100

Mr. Holcombe's Accounts.

Dr Williams left Peking on the 30th March, 1875 and arrived at Shanghai on his return on the 5th of May, 1876. He is entitled to pay during his absence as follows: leave, 60 days; transit from and to China, 120 days, making in all 180 days, which, if counted consecutively would give him pay to the 26th of September, 1875:

There is no report of the date at which Dr Williams reached Peking on his return but as Mr Seward reports his (Dr W's) arrival at Shanghai and mission to accompany him (Mr S.) to Peking; and also reports his own arrival at Peking on the 10th of June it is presumed that Dr Williams reached his station that date.

Mr Holcombe charges for services as Secretary and Chinese Interpreter of the Legation at the rate of $4000 per year from 1st of July, 1875 (three months after the departure of Dr Williams from Peking) to the 5th of May, 1876 (the day Dr W. arrived at Shanghai) Dr Williams absence should count from the time he left his post until

Mr Holcombe's account for services as Secretary & Interpreter

Dr Williams reports that he reached Peking on his return on 10th June 1876

the date of his return thereto. Dr Williams accounts have not been received but it is supposed that he has drawn on the London Bankers for the 180 days salary due him. In case he has done so, & if Mr Holcombe's account is allowed the govt will pay salaries to two persons for performing the same duties at the same time.

It is not clear why this account is made out at the rate of $3000 per year. Section 1680 Revised Statutes provides that "the compensation of the Secretary of Legation to China of acting as Interpreter shall be at the rate of $5000 per year, and if not acting as such at the rate of $3000 a year" Mr Holcombe's bill is for services ~~at the rate of $~~ as Secretary and Interpreter, and if he is entitled to pay as such it should be at the rate of $5000 per year.

Mr Holcombe was not at the time for which he has charged acting under any appointment from the government. He was supposed to be performing the duties of Interpreter merely in pursuance

Sec 1742 RS 3 Mch '69

of a private arrangement with Dr Williams. He had no official duties and was not authorized to act as Secretary of Legation

This is a question that could not arise at any other than the Chinese Legation. In other Legations the duties of a Secretary can be performed by other attachés or by the Minister But Dr Williams when he took advantage of his leave was compelled to procure a substitute and to do so it was necessary for him to personally guarantee to the person employed payment for his services.

It would be just for the government to pay Mr Holcombe at least for the time during which Dr Williams received no salary, but I know of no provision of law under which it can be done

J. A. Campbell
2 9th Sept

The disbursement account has been approved

Mr. Berdan

No. 121

United States Legation,
Chefoo. August 7th 1876.

Mr Seward, to the
State Department,

Visit to Chefoo.

Give date of departure from Peking. Will remain until about September 1st. The foreign Ministers generally at Chefoo.

No. 121.

Chefoo, August 7th 1874.

To
His Excellency Hamilton Fish,
Secretary of State,

Sir,

I have the honor to advise you that I left Peking on the 29th ult and arrived at this port on the 3d instant. I shall remain here until about the 1st of September. The Russian Minister is here, the Austrian, British, French, German, and perhaps the Spanish Ministers are expected here in a few days.

I have the honor to be

Sir,

Your obedient servant

Geo. F. Seward.

Mr. Berdan
Ask Sept 18.

consult this Emalo may
come here &

No. 122

United States Legation.
Chefoo. August 8th 1876.

Sir

To the State Department.

The Yunnan Case.

The final negotiations before the British Minister left Peking. The Viceroy Li Hung Chang ordered to Chefoo to resume negotiations. A deputation of notables protest against his leaving Tientsin and visit Chefoo to ask the Minister to go to Tientsin. The Minister has not yet arrived. The prospect of a resumption of negotiations and of a satisfactory result. The leading members of the diplomatic Body will be here, and good offices may be asked.

No. 122.

United States Legation.
Chefoo, August 8th 1876.

Honorable Hamilton Fish.
Secretary of State.

Sir.

In my dispatches regarding the late history of the Yunnan case I have referred to a settlement which was nearly consummated between the British Minister and the Chinese Government, its general conditions and the occasion of its failure.

I have now the honor to hand to you a translation from the Chinese, given to me by the Viceroy at Tientsin, of the Eight Articles written down by Sir Thomas Wade as the basis of the final negotiation. (No. 1.) The sixth Article was supplemented by a memorandum (No. 2.) On the 14th of June Prince Kung advised Sir Thomas that the government accepted the Articles saving

the

the limits one, and made a proposal in lieu of it. (No. 3) I understand that Li Hung Chang signified his approval of the amended Article. The Envoys of the British Legation then visited the Foreign Office and the conversation which ensued drew from the Ministers a note to Li Hung Chang for his understanding of the indemnity Article. (No. 4.) It would seem that the Ministers did not regard other questions raised by him as likely to endanger the negotiation, Li Hung Chang sent in at once a note saying that he declined to discuss matters further, and should leave at once for Shanghai. To this note the Foreign Office replied on the 15th expressing surprise at his course (No. 5.)

(If Li Hung Chang was not a man of an impetuous temperament it would be difficult to explain his action.)

I have expressed no opinion as to the merits of this so nearly consummated settlement of a grave difficulty. In the absence of information as to the facts elicited by the Commissioners sent to Yunnan I have not sufficient knowledge of the case to do so. (It is quite

possible

possible however to express a sense of disappointment at a failure which appears to have been unnecessary.

On the 28th of July an Imperial Edict was issued in pursuance of which the Viceroy, Li Hung Chang, has been ordered to come here, and to effect a settlement with Sir Thomas. When I was at Tientsin on my way from Peking he was making preparations for the voyage, and expected to sail so soon as he learned of the British Ministers arrival. Afterward he was waited upon by the notables of the city who urged him not to leave his post. These people have since appeared here to the number of about forty. Sir Thomas has not arrived but they have made no secret of their errand. They say that the Viceroys province is in a disturbed condition owing to the famine, and the rumors of foreign complications, and that they fear his departure might precipitate difficulties. They also say, with perfect naivete, that a Viceroy was once carried away by a British ship-of-war and they fear that their Viceroy may be treated in the same way.

Sir

Li Hsuan's movements appear to be uncertain but I think it likely that he will reach here soon. Whether he will go to Tientsin or and whether he will consent to treat at all cannot be told, but I incline to the opinion that he will signify his willingness to receive the Envoy here, and looking to all the circumstances I am hopeful that a result of a satisfactory nature will be reached. It is not likely to conform however to the terms proposed at Peking, for Li Hsuan can not well justify his departure from the Capital if he fails to inflict upon the Chinese a penalty for what he will consider their disposition to trifle with them.

The Envoy was anxious to see me at Tientsin, but I thought it better to avoid a meeting. I do not think it unlikely however that failing to reach a settlement with Li Hsuan, if they meet here, he will apply for my good offices. I shall of course act carefully in such event but I feel that I should assume a grave responsibility if I should refuse his request.

The Russian Minister is here now, and

and my Colleagues for Austria and Germany are being to arrive soon, I have reason to believe that they are not well satisfied with the prolongation of the negotiations, which is causing uncertainty and annoyance in mercantile circles and rendering the transaction of business with the government more difficult. I have not been able to declare to them the facts which have come to my knowledge but they cannot remain in ignorance of them, and fuller information will certainly increase their dissatisfaction.

I have the honor to be

Sir,

Your obedient servant

George F. Seward.

Inclosures.

No. 1. Sir T. Wade's English Articles.

" 2. " " Supplementary memorandum.

" 3. Prince Kungs acceptance of Articles saving one, and counter proposal.

" 4. Foreign Office in explanation of 8th Art.

" 5. " " expressing surprise at Sir T. Wade's proposal to leave Pekin.

" 6. Edict appointing Li Hung Chang, an Envoy to negotiate with Sir Thomas.

Inclosure with, No. 1.

The Articles proposed by Sir Thomas Wade for the settlement of the Yunnan affair.

Art. 1. The circumstances of the case as set forth in the Memorandum presented to the Yamên (by Sir T. Wade) to be at once made the subject of a Memorial to the Throne, with due expressions of deep regret. When the Edict is applied for it is to be particularly requested, that it shall set forth their deep regret. The Memorial shall be submitted to the British Minister in draft, for approval. Copies of the Edict shall be sent by the Yamên to each provincial government, with orders that Proclamations be issued embodying said orders, the Memorial and the Edict in full. These Proclamations to be publicly posted in every Prefecture and district for the information of the people.

Art. 2. The British Minister may appoint officers to visit the cities and towns in each province to learn whether proclamations have been issued in accordance with the provisions

of

of the preceding Article, and at any time within two years, after request being made, the superior authorities of any province shall depute officers to proceed with the British officers who may make such visits to various places.

Art. 3. In cases arising hereafter in the provinces (away from the open ports) affecting the persons or property of British subjects, the British Minister may at his pleasure depute officers to proceed to the place and there await the arrest of the offenders, and thereafter to watch the trial. When the British Minister takes such action he will communicate the fact to Prince Kung, who will authorize the communication.

Art. 4. As regards the trade between Yunnan and British territory through Burmah, the Yunnan will memorialize requesting that an Edict be issued ordering the Viceroy and the Governor of Yunnan to comply therewith (& to permit Trade.) When the British government shall have appointed officers to confer on the subject efficient Chinese officers will be sent to consult with them, and when they have

agreed

agreed upon a set of Regulations. The same shall be submitted to the Yamên and the British Ministers, who will ask for their approval by their two governments, pending which they shall not be carried into effect.

Art. 5 At any time within five years from the 1st January 1877, the British government will be at liberty to send Officers to reside at Ta-li Fu, or some other convenient place in the Province of Yunnan, who shall have oversight of the frontier Trade. Another officer may be appointed to reside at Cheng-King Fu in Szechuen to cooperate with his colleague in Yunnan and to look after commercial interests. British subjects shall not claim the right to establish permanent residences at the places where the British officers shall reside. These officers may consult with the superior provincial authorities whenever occasion may require.

Art. 6. Several measures for the improvement of trade have been already discussed, and a separate memorandum has been prepared regarding the special question of the simultaneous payment of duties and transit dues.

Art. 7 The Ministers appointed for England will

will start for that country without delay. They will bear a letter from the Emperor expressing deep regret for the Yunnan affair). The draft of this letter shall be submitted to the British Minister for approval.

Art. 8. The amount of the indemnity to be paid will be determined by the British government at the request of the British Minister.

Inclosure with, No. 2.

Memorandum on Trade. (referred to in Art. 6 of Sir J. Walsh's general Memorandum)

If any sea- lake- or river- ports be opened by arrangement at such ports foreign merchandise shall pay import and transit duties upon entry. In such case foreign merchandise shall not be subjected to any further dues. If Sir J. Walsh agree to the British Minister's note submit it for the approval of his Government, and will consult with the other foreign Ministers. The port of Ichang (on the Yang tze 400 miles above Hankow) must be opened at once. As to the understanding that duties of import and transit are to be paid at the same time after which no further duties are to be demanded - this rule is to apply uniformly in every province, whether or not a province may have a port open to trade.

Inclosure with, No. 3.

The Foreign Office to the British Minister, (a consular jurisdiction regarding Trade) and acceptance

acceptance of the other proposals)

Peking. June 14. 1876.

I (Prince Kung) beg to state that on the 6th instant Mr Mayers. (Chinese Secretary of the British Legation.) delivered to the Yamên the propositions made by Your Excellency.

Of the eight Articles put forward I find that all but the sixth can be agreed to. As the sixth Article relates to foreign trade in general the Yamên would propose instead to address each of the Foreign Ministers, as well as yourself, upon the subject with a view to arrive at an uniform conclusion. Ichang and other ports may be opened thereafter.

Inclosure with No. 4.

The Members of the Foreign Office to the British Minister.

Peking. June 14. 1876

We beg to inform you that Mr Mayers has

has just been in conversation with us. He stated that under the Eighth Article (regarding indemnity) Your Excellency would have to report to your government and await its decision.

On the 6th instant we discussed the matter of indemnity with you, and you stated in response to our request that the amount demanded should be named, that if we insisted you would have to fix it at 200,000 Taels, that we should give you a warrant for that sum, and that when your Government has decided upon the amount you would return to us the Envoys, if any. You declared that you were not yet able to say whether any indemnity would be asked, and that in all probability the demand if made would be for a smaller sum.

In our visit of this morning we agreed to the Eighth Article among others, and we wrote now to explain our understanding of it.

Enclosure

Inclosure. No. 5.

Foreign Office to the British Minister.

Peking. June 15th 1876.

Yesterday the Mayers came at the Yamên and had a settlement with us regarding the Yunnan case. We showed him the draft of our Memorial to the Throne (Art. 1.) He stated that it was unsatisfactory in some respects and we altered it as he wished. We also showed him the draft of our proposed despatches to the several Foreign Ministers in regard to trade (Art. 6 as amended) He objected that it was not clear, and we made a note of the wording which he proposed in order to emend its effect. We gave him copies of our drafts to take to you. The Mayers then produced the Eight Articles, and with the exception of the two mentioned above under which amended drafts are to be prepared we found no divergence of opinion until the eighth was reached. He said to us that in our note of yesterday we had

agreed

agreed to it equally with the others, and as to the amount we much pay whatever your government should demand. It matters not whether the sum should be large or small. Even if it should be fifty millions of Cuels, it much be paid at once

But this was contrary to the understanding. We therefore addressed you yesterday letter, explaining our views and we expected that they would be accepted and the war brought to an end. But to our surprise we have received a note from you stating that you withdraw from the Articles and will have Fighting. This is much contrary to our unexpected result. We have had business relations for many years and know well your disposition to be friendly and just in managing affairs. Hence we wish to say that if there was anything irregular in our discussion we beg that you will let us know what it was.

Inclosure with, No 6.

Prince Kung to Mr Tewaid.

Peking. July 29th 1876.

Upon the 28th instant I had the honor to receive from the Privy Council an Imperial Edict. as follows;-

"Let Li Hung Chang, Viceroy of Chihli &c
" &c &c be accredited as Envoy with full
"powers, to proceed to Chefoo, and adjust certain
"matters, with His Excellency Sir Thomas Coade,
'H. B. M. Minister. Respect this!"

Having informed the British Minister it is my duty to make and forward to your Excellency a carefue copy of the Edict for your information.

Mr Payson

v. Livraud. No. Dated 23d Aug 187

Ack 3 Nov 20-

Subject

The Gruneau affair

lter, an examination it appears to me that
this dispatch &c amply be acknowl-
dged

J W Campbell
21 Oct

Ack Novem 20.

Confidential.

United States Legation.
Chefoo. August 23. 1876.

No. 123

Mr Seward
To the State Department.

The Yunnan case.

Transmits papers showing the terms which China is willing to concede to England in settlement of that difficulty. and two confidential letters from Mr Hart to the Government, suggestions begun at Chefoo. The British Minister holding off. but likely to accept a settlement. Possible that the whole negociation is a masquerade. Relations of Sir Thomas Wade & Mr Hart. Mint and Post Office likely to be established. and ports opened. This dispatch not to be printed.

Confidential.

No. 123.

United States Legation.
Chefoo. August 23. 87.

To Honorable Hamilton Fish
" " "

Sir.

You will remember that in my later dispatches regarding the Jurman case I spoke of an interview with Mr Hart the Inspector General of Customs at which I suggested the establishment of a Mint and Post Offices, and of a subsequent interview in which he informed me that the Government had assented to these proposals. I mentioned also that which Mr Hart did not so inform me I had concluded that they were disposed to offer these matters to the British Ministers as an earnest of good disposition and with the hope that the Jurman negociations might proceed more favorably in consequence.

You will remember also that in my

later

latter interview Mr Hart told me that he was going to Shanghai in order to urge upon Sir Thomas Wade his opinion that he had been unduly hasty in breaking off negociations and explained to me certain proposals in regard to the transit-pass system and likin taxes, which as I understood he was authorized to put before Sir Thomas, and that I at once emphatically informed him that I condemned the main feature of his proposals - the legalization of likin taxes and could only hope that the British Ministers would do the same.

You will remember further, that upon this strong expression of my views Mr Hart said that he would go again to the Foreign Office and obtain a modification of the proposals to be submitted to Sir Thomas.

I have now to submit to you a most interesting series of papers which have been communicated to me confidentially during the

These are, first:- Seven Articles proposed by Mr Hart to the Foreign Office

on

as the 2nd of July. They have reference to the 6th of the Eight Articles submitted by Sir Thomas as a basis of settlement of the Jamaican matter, ~~and~~ seem to be proposed to him to be accepted instead of the reference of commercial matters to the other Ministers. and embrace the Lekin proposal, to which as I have just mentioned I so strongly objected when it was made known to me by the Hart and my proposals for the establishment of a Native and Post Offices.

The next paper in four paragraphs shows the understanding arrived at between the Hart and the Foreign Office after his conversation with me. The second paragraph of this paper is simply a covering up of the Lekin legalization proposal in a form which might make it more acceptable to Sir Thomas. The third paragraph is a return to the original 6th Article agreed upon between Sir Thomas and the Foreign Office - leaving the commercial issues to be discussed by the Diplomatic Body, and postponing the opening of ports to that extremely indefinite period when they might be able to agree between themselves and with the Foreign Office. The fourth paragraph

paragraph contains the proposal which I urged upon Mr Hart - the opening of certain ports at once and the discussion of likin &c afterward.

In referring to these papers I will call them the Memoranda of the 3rd and 5th July.

The next paper is a confidential letter addressed by Mr Hart to Mr Macpherson, Commissioner of Customs at Tientsin, under date of Shanghae, 16th & 17th July. The contents of which he is to communicate to the Viceroy Li Hung Chang (called by Mr Hart, Li, Ch'ung Tang, or the Grand Secretary Li,) and through him to the Foreign Office.

The next document is another letter from Mr Hart to Mr Bowra dated 22nd July, to be similarly dealt with.

You will notice that Mr Hart makes certain statements of fact and opinion in regard to the situation of the Yunnan case and advises that an Imperial Edict be procured directing ~~him~~ the Viceroy to proceed to Chefoo, and to negociate for a settlement with Sir Thomas and granting him full authority in the premises.

The

The story of Sir Hart's influence with this Government is well told in these informal notes of his which are followed out implicitly by the Chinese and in the face of difficulties without questioning. It will surprise you as it has me. I should communicate these papers to you to show you the extraordinary influence wielded by this man. if for no other reason,

In looking over these remarkable letters you will not fail to notice that they are artfully drawn. In the 2nd paragraph of that of the 16th, 17th July it is stated that Sir Thomas is disposed to leave the matter to his Government. In the 6th that the English are not using "to let China down" lightly. In the 10th that "England is disposed to "let the world see that she is quite ready "to hold her own in Europe and to carry "out her policy in the East at one and "the same time" In the 11th:- "the Chinese de- "mands will be onerous and may be backed "by other powers." To clinch all this he writes a postscript saying among other things that if the Viceroy does not go to Tientsin Chefoo and persuade Sir Thomas to accept the

terms

terms offered, "it is all up". His letter of July 22nd is in the same strain.

His main object of course is to impress upon the Chinese that they are in danger. With his knowledge of them he probably feels that he must use strong language or they will not appreciate the gravity of the situation. But he knows very well that the danger is not so great as he indicates and he pursues a course of doubtful morality when he goes so far as to say "it is all up" if the Viceroy does not go to Chefoo, and that the English demands must "be backed by other powers". †

The Viceroy has taken pains to inform me that he is prepared to grant to Sir Thomas all that was contained in the Eight Articles so nearly concluded at Peking, as the Chinese understood them, and so much of the proposals contained in the Memoranda of July 2nd & 5th as Sir Thomas may require.

Just now Sir Thomas is utterly declining to discuss any mode of settlement excepting the punishment of the officials only, as his instructions were

Concerned.

concerned in the murder of Mr Margary and the attack on Colonel Browne. But as he once before swung off from this line of procedure, taking or proposing to take in settlement the provisions of the rejected Eight Articles it would be difficult to say that he will not come back to that mode of getting rid of the business, especially as the Chinese will now give more than the Eight Articles contained.

The Viceroy believes that Sir Thomas does not know that they will grant the Eight Articles and more and that Mr Hart kept the further proposals back, simply assuring Sir Thomas that the Government could meet them in a liberal way. But Sir Thomas and Mr Hart have been so intimate that I made a question whether a perfect understanding does not exist between them, and this great meeting to discuss the Yunnan case and solemn hoisting off of the British Minister is not a masquerade at the expense of the Chinese. I have noticed that Sir Thomas, who is a very excitable man, is not especially nervous

just

just now. He told me yesterday that he is afraid that the negotiators may fall apart but altogether I gathered that he is not much concerned in that direction. We have seen that he can easily overlook a point in the management of matters, to which I cannot assert the fact I may be allowed to indulge a strong suspicion that a perfect understanding exists between the two Irishmen, the Minister of England and the Inspector General of Customs.

If a settlement shall be reached it will surely contain provision for the establishment of a Mint and Post Offices, and almost as certainly for the opening of more ports. This last proposal is the only one which can be hit upon for the benefit of our languishing steam navigation interest. I beg leave to point out to you that there are all marks of my especial suggestion, they come as it were forced into the hands of the players. I shall look eagerly for the rejection of the abominable latter proposal.

The Articles providing for the establishment of a Mint and Post Offices (Memorandum

of

of July 2nd) state that there shall be under the control of the Harbour Master a limitation from the Peiho that he will not admit that somewhat peculiar clause in any agreement arrived at with Sir Thomas. I think he is right on that point and have it him intimated to him that it may not be altogether agreeable for the various Powers to be called to the discussion of commercial matters concerning all and arising under various treaties upon the formal motion of the British Minister. I have suggested to him that his reply may be made in some such language as the following:- "The general "commercial questions which have been dis- "cussed with the British Minister are left "to be hereafter called up by him or by him "and his colleagues acting together or sever- "ally as they may see fit."

The Chief told me yesterday that he had learned from London by telegraph that inquiries as to British intentions in China have been made by the Ministers of certain Powers, which he did not state. These are probably the result of letters of a discrediting sort sent from Peking by some of

my

7

my colleagues, especially, I observed say, the German Minister. He said also that it is "on the cards" that a special Embassy may be sent to China. He spoke of this information as just received.

I have the honor to be

Sir,

Your obedient servant

Geo. F. Seward

P. S.

I especially and respectfully suggest and ask that this despatch be not printed at any time, or under any circumstances.

S.

Enclosures.

No. 1. The Hsü's Memorandum of July 2,

" 2. do. do. of July 5th "

" 3. The Hsü's confidential letter to the Wai Wu Pu. of July 16 & 17th "

" 4. do. do. July 22.

P.S.

Inclosure with dispatch No. from Chefoo
August 23rd 1876. No. 1.

Seven Articles proposed by the Taotai on
the 2nd of July.

1st Chinese to be allowed to take out
transit-passes for foreign imports and to pay
the transit-dues thereon in the same manner
as foreigners may do.

2nd Chinese on buying foreign goods
to be allowed to pay the transit-dues and
take out transit-passes. (To this was added
on the 8th July:- And no other dues shall be
levied thereon either at the port where
sold or in-transitu.

3d Blank.

4th The likin tax on foreign goods
at the treaty ports to be made a fixed
ad valorem charge. If in future it is pro-
posed to increase or diminish that charge
notice to be given several months in advance.

5th Native and foreign merchants
alike may take out passes for native goods
for export to foreign countries and may go
into the interior to buy such goods, and
convey them to a sea port for shipment in

accordance

accordance with the Kanoon-regulations.

6th Government post offices ~~and~~ to be Established at the treaty ports and contiguous places under the control of the Inspector General of Customs.

7th A government mint to be established at some convenient central location under the control of the Inspector General of Customs.

Inclosure with dispatch No. from Chefoo
August 28th 1876. No. 2

Additional Articles proposed by Mr Hart on the 5th of July.

1st The provision to make the likin-tax a fixed ad-valorem charge may be modified in three ways.

2nd No question to be made of likin-taxes. but as to the provision that "when Chinese buy foreign goods they may pay transit-dues and take out transit passes"— such passes will be of two kinds, the first to Exempt imports in-transitu from further taxation, and the second to Exempt goods upon which full and half duties have been paid from further taxation when sold at the same port.

3rd As first proposed:- dispatches to be sent to the several foreign Ministers inviting them to discuss with the Yamen the question as to what duties and taxes shall be paid at the ports, and in the interior upon native and foreign goods and all pertaining to foreign trade-imports and Exports- in order that a uniform rule may

be

be made and a satisfactory understanding effected. And after the rules have been decided upon Ichang and the other ports can be opened in order, as already proposed by the Yamen. (The words underscored added by the Ministers of the Foreign Office)

4th A dispatch to be sent to Sir T. Wade informing him that the ports of Ichang, Wênchow and Pakhoi will be opened at once, and the other questions for discussion will be submitted to the foreign Ministers, as explained above.

Note. The proposal to make the likin tax a fixed ad-valorem charge, and the three other propositions mentioned above are not intended to be discussed together. Four propositions (three sic) are drawn up so that in case Sir T. Wade refuses any one, another, may be substituted. In case any of these four be agreed to the Emperor's visit to Chefoo will not proceed further.

Inclosure with despatch No. from
Chefoo, August 23rd 1876. No 3.

Mr Hart to Mr Macpherson

Confidential.

Shanghai. 16th July 1876.

Dear Macpherson,

Please see Li, Chung Tang at once and tell him:—

1st The I. G. (Inspector General) arrived at Thgi on the 15th and saw Sir T. Wade the afternoon of the same day.

2nd Sir T. Wade is clear of the same way of thinking. That is he will refer the matter to England, and await the decision of the British Govt. The Governor starts for England this morning.

3d Sir T. Wade will probably go to Chefoo in a weeks time.

4th Sir T. Wade will of course see anybody the Chinese Govt sends to negociate with him, but such an Edict as Li, Chung Tang had before, (viz to shang sha-shi-li i an) will not suffice, The negociator must

have

have "full powers" (*pien-i hong-chih.ye*);
must have something new to propose,
and must come forward largely and liber-
ally. (That is must not haggle and bargain):
otherwise meetings will be merely waste of
time.

5th. From what I hear Sir T. Wade
say a visit to the Legation by two officers
of the Boards. (a *Cheng* and a *fu*) will not
suffice: the visit to be at all acceptable
would have to be of a much more striking
kind, i.e. would have to be made by a
much greater number of people.

6th. From what I hear Sir T. Wade say
the English Govt. is more likely to take up the
matter seriously than to let China down
lightly.

7th. (Here follow three lines carefully
obliterated after being written and a note,-
"See back page".)

8th. What I strongly advise is that Li
Chung Tang shall get another Edict giving
either himself alone, or himself and others, large
powers, i.e. powers enabling him to deal
with any question or phase that may come
up. and let him or them meet Sir Thomas

at

at Chefoo. I think that the affair might possibly be settled, but I am not at all certain. If this is done - and I hope it will be - then Chung Tang and nobody can do it as well as the Chung Tang ought to be at Chefoo by the 1st of August.

9th Sir T. Wade thinks favorably of the commercial proposals brought down by me from Peking i.e. of the second of the four ways of putting the matter as handed to the Tsungli on the 6th July. (1st of the 3 ways & 5th July) but in addition to Ichang, Wenchow and Pakhoi I strongly advise the Chung Tang to offer the opening of Wu Hu. The withdrawal of Wu Hu has had a very bad effect, especially as it is in the Chung Tang's own province.

10th The European situation is daily changing but the feeling in England is that it would be well to let the world see that England is quite ready to hold her own in Europe and carry out her policy in the East at once and the same time.

11th Sir T. Wade will stay here until the 24th or 25th so I shall also remain but I strongly advise the Viceroy to meet him at Chefoo about the 1st of August for if

Chinâ

China cannot settle with him then. My opinion is that the Chinese demands will be onerous and may be heard by other Powers.

13th Request the Tsêung-Fang to write their own paragraphs by paragraph and communicate it to the Yamên. There are so many inquisitive Chinese knocking about here that I think it best to send what I have to say in this form.

Send me a copy of the Chinese into which the Viceroy turns my paragraphs.

Yours truly
(Signed) Robert Hart.

P. S. What precedes is the impression my talk and I have since had a second with Sir T. Wade leaves on me, but from other information I have obtained I believe that of the 12 paragraphs you are to give the Viceroy the most important one is the 10th. England is purposely going to let it be seen that the prospect of a general war in Europe does not force her to husband her strength. If Li does not meet Sir T. Wade at Tsêntsoo and endeavour him to ask England to accept the offer he brings with him, it is all up. Sir T. Wade will not stay here and will

will neither go on to Tientsin, nor return to Peking, he will not settle anything here, and he will not recommend his Govt to accept any settlement offered at Chefoo unless it is appreciative and liberal in character. This P.S. is to give you the conclusion I have drawn from several bits of positive correct information. You may of course read it to the Viceroy.

(Signed) R. H. 17th July.

Paragraph 7.

As regards a Special Mission say that after thinking over it again I can only repeat what I often said at the Yamen, viz. that generally speaking, representation abroad, is what most countries have adopted to protect their own interests, and urge their own views, but that as regards the Yunnan case in particular. What a Special Mission might do good, if sure of the correctness of its facts and explanations. It could only do harm if what it puts forwards as facts or explanation could be upset or rebutted by evidence or arguments in the T. Tsung Jo Yamen.

Enclosure with dispatch No. from Chefoo
August 23rd 1876. No. 4.

Sir Thos. F. Wade to Mr. Macpherson.

Confidential.

Shgi. 22. July 1876.

Dear Macpherson,

I send you a duplicate of my letter of the 16th - 17th. Affairs are much as they were when I wrote. I have seen Sir T. Wade four or five times since and the only thing that has come of it is that I am inclined to conclude that if China can manage to arrange matters with him before Grosvenor can reach England she will get off more easily than if the settlement is delayed so as to be after and not before his arrival.

Sir T. Wade refers to the other treaties (French and German) and says that their stipulations are so opposed to the collection of anything but import duty as a fact that for them to consent to the Japanese last commercial proposal (their legalization) would be to make a concession. Thus although he is disposed to

regard

regard these proposals as an improvement on present practice but is not prepared to assent to them without further consideration.

As regards a special Mission - had China been already represented in England the Yunnan negociations might have proceeded very differently, but not represented here and with all the circumstances of the moment to be considered the ultimate success of a special Mission just now can hardly be relied on as a certainty. My own instinct is for it as a good move in the diplomatic game, but Sir T. Wade speaking in the interests of China does not think that it would help matters.

There now appear to be only two ways of proceeding for China: either to send a Mission or to appoint Li Chung Tang to meet Sir T. Wade at Chefoo. Of these the latter is by far the safest step, and the most likely to end well. On the other hand it is again in the cases that England may send a special Mission to China: if she does so it will be with an ultimatum and China's refusal to accept the terms offered would probably see English troops in occupation a fortnight later.

You had better see Li Chung Tang again

again and read this letter to him carefully; telling him in conclusion that for himself to meet Sir T. Wade at Chefoo early in August would be the most likely way of bringing matters to an easy and speedy termination. But to ensure success he ought to go to Chefoo armed with any large and very general powers.

Yours truly,

Signed. Robert Hart.

P.S.

Request Li. Chung Tang to send the substance of this to the Yamên.

Ack - No Seward circulars appear to have been received
& will thank -
No. 124. Answ'd accordingly Nov 16 Secretary Seward

DEPARTMENT RECEIVED NOV 7 1876 OF STATE

DEPARTMENT RECEIVED NOV 7 1876 STATE

United States Legation.
Chefoo. September 5th 1876.

Hon Seward

To the Department of State

A breakfast party given by the Mandarin
Li Hung Chang.

Hon Swan has sent a report of same
with draft of the remarks made by
him in response to the toast of the United
States.

No. 124.

Chefoo. Sept 5th 1876.

Hamilton Fish

" "

Sir,

On the 30th ultimo the Viceroy Li-Hung Chang gave a breakfast party to the several foreign Ministers then present here. The occasion was one of much interest as being entirely novel in China. I have much to send a newspaper slip showing the toasts offered at the close of the repast and send also a draft of my own remarks, as full.

I hope that what I said will meet your approval.

I have the honor to be

Sir,

Your obedient servant

George F. Seward.

Inclosures.

1. A newspaper slip. as above.
2. Mr Seward's remarks "

The United States Minister said:

As my esteemed colleague the Minister for Russia has already had the privilege of proposing the health of the Chung Tang, our host to-day, I trust that he will allow me to respond first to the sentiment which has been offered by the Chung Tang in compliment to our respective countries, the United States and Russia, - nations which are widely separated, but between which relations of rare cordiality have always existed.

In common with my esteemed colleague the English Minister, I feel that the occasion is one of great interest. I remember no other occasion when a Chinese statesman has taken the initiative so largely and liberally in seeking to promote social intercourse with foreign representatives. When man meets man for the free interchange of thought and feeling, harmony of sentiment is likely to result. So the frank intercourse of the representatives of different states, yields to them pleasure, and affords to their respective countries the assurance that all questions

will

will be dealt with in a friendly and forbearing spirit.

I find to day many assurances for the future relations of China and the Western powers. Who can doubt that the wisdom which has characterized their Majesties the Regents for the long time during which they have been in control, will continue and establish foreign relations upon a basis of abiding peace. It is esteemed a matter for congratulation that our meeting takes place on an anniversary of the birthday of the Senior Empress, and it is fitting that at such a moment we should acknowledge the merit which has characterized the administration of the government during the two regencies in which she has taken a part.

Nor should we forget to-day His Imperial Highness Prince Kung. Few statesmen of the age have been called so early to positions of the greatest trust, and few have acquitted themselves in a more satisfactory way. Combining in himself an illustrious origin with great talent in affairs he is still young in years,

and

and the Empire may look forward to a long continuance of his services.

Of our host I cannot speak too warmly. I have known him in the time of war and in the time of peace. Like some of the distinguished men of my own country he has served his native land with equal ability in both, winning the lasting gratitude of his countrymen and renown throughout all lands.

Nor can I forget that our host is the patron of the great educational mission, to which he has referred, as now being carried out in America. One hundred and twenty bright, handsome youths, carefully selected here, are studying there whatever is most desirable in Western Knowledge. Am I wrong in saying that we shall all find these youths after they have returned here and have taken up positions of influence under the government, exercising potent counsels in favor of good-will between their native land and the lands with which they have become acquainted. No Western man doubts the benevolence of the West. These youths will

Come

come back infused with this benevolence and disposed to illustrate practically the beautiful words which have been quoted to us: "All within the four seas are brothers."

Let it be understood that each nation of the earth finds its most satisfactory and abiding prosperity in the peace and prosperity of all. Let it be understood that whatever incidents afford here or elsewhere a promise of a fairer developement of national life, will be hailed everywhere with pleasure. Let it be understood also that no untoward circumstances can occur which will not awaken anxiety everywhere.

I propose as my sentiment — Peace and Friendship between the great Chinese people and the peoples of the West.

See next page.

The North-China Daily News.

SHANGHAI, SEPTEMBER 5, 1876.

"I have heretofore enjoyed the gratification of meeting from time to time most of my guests now present, but I have met them singly at different places. The increased pleasure of meeting them collectively and enjoying a few hours of pleasant intercourse free from the restraints of public business, has been denied me until this time.

"Here, at this port of Yen-tai, beautiful scenery delights the eye and cool breezes give health to the body; it is fitting, therefore, that our minds should be in harmony with the beauties of Nature, cultivating friendship and sincerity as being the noblest traits of human character.

"And applying the same principle to our official duties, I sincerely hope that the nations here represented may always dwell in peace and friendship with each other, like brothers living together; for an ancient sage of China has said, that 'all within the four seas are brothers.'

"I therefore propose this sentiment as coupled with the health of the distinguished guests who grace my table this date."

The health of the distinguished guests present was next proposed.

Sir THOMAS WADE returned thanks for the diplomatic body, and although it may be imagined that the peculiarities of the present state of affairs rendered his position somewhat delicate, he was enabled to dwell upon the good augury for future relations which was furnished by the present assemblage at the invitation of so distinguished a member of the Chinese Government, and this, moreover, on the birthday of the Empress-Dowager, an occasion precisely of the kind of which advantage is taken in the mutual intercourse of all countries, apart from China, to interchange courtesies of the present description. Although among nations, as among individuals, varying interests and different dispositions naturally prevail, experience has amply shewn the advantage which flows from a frank recognition of mutual equality in social and diplomatic intercourse. As it would not, perhaps, be fitting to couple any other name with that of the august Lady whose birthday was celebrated this day, the speaker left it to one of his colleagues to propose the health of the Grand Secretary Li, and himself proposed that of Her Majesty the Empress Dowager."

The toast was responded to by all the guests, standing.

M. de BUTZOW, the Minister of Russia, next proposed "The health of the Grand Secretary Li," dwelling upon his well-known energy and enlightenment, and observing that, whilst his (M. de Butzow's) recent journey from Peking had enabled him to observe the efforts which China is making in the direction of military improvements—which it is impossible to connect with a purely pacific policy—the introduction of new ideas in this respect must inevitably bring other reforms in their train. Appliances of scientific warfare cannot be maintained without a proper system of finance, and this must entail an enlightened system of administration. No one in the Empire, it is universally believed, is more deeply impressed with these truths than H.E. Li, and no one is more anxious to see them carried into effect.

After the health of H.E. had been warmly responded to,

The GOVERNOR-GENERAL proposed, through his interpreter, "The success and prosperity of the British Navy," coupling with the toast the names of Admirals Ryder and Lambert.

Vice-Admiral RYDER returned thanks, expressing the pleasure he had felt on receiving a visit from the Governor-General a day or two previously, on board his flagship, H.M.S. *Audacious*.

A toast in honour of the German navy was next proposed, to which M. von Brandt responded, returning thanks on behalf of the youngest of existing navies, and drinking to the prosperity, in return, of the oldest of existing Governments, that of China. A toast to the French navy, coupled with the navies of Austria and Spain, was next proposed by H.E. LI, with special reference to the gratitude due to France for the services of the naval officer (M. Giquel) who has assisted China so greatly in laying the foundations of a naval service of her own.

M. BRENIER DE MONTMORAND responded to the toast, observing that M. Giquel's chief merit had lain in the earnestness with which he has striven to enable the Chinese to suffice to their own requirements.

In conclusion, a toast was proposed in honour of the Governments of Russia and the United States, which was acknowledged by the Hon. Mr. SEWARD on behalf of himself and his colleague, who had already spoken. Mr. SEWARD, in acknowledgment of the remarks that had been made in proposing the toast on the subject of the Chinese students now in America, dwelt upon the wisdom of the policy pursued in leaving these youths for a length of time in the United States, in order to allow them to become thoroughly proficient in their studies, and expressed his confident belief that on their return to China they will be found most valuable agents in furthering a spirit of international amity. Mr. Seward referred also to the fact that the previous day had been the 34th anniversary of the signature of the Treaty of Nanking, an event which should be looked upon as most fortunate for the Chinese people, in view of the intercourse with the outer world which had been accomplished through its agency.

The entertainment shortly afterwards came to an end, the Governor-General's body guard, drawn up in two lines on either side of the courtyard, presenting arms in the European military fashion as the guests took their departure.

CHEFOO.

The 30th August, 1876, saw an entertainment held at Chefoo such as has never before taken place in the history of diplomatic relations with China. It is a fact sufficiently noteworthy in itself that, for one reason or another, the Ministers of no less than seven foreign powers have found themselves assembled at this usually quiet summer resort, in addition to two British Admirals, and the highest in rank among the public servants of the Chinese Government, the Governor-General and Grand Secretary Li Hung-chang. The occasion, as is well-known, has led to much interchange of visits, both afloat and ashore; and H.E. Li was struck with the happy idea of uniting the entire diplomatic body at a banquet given at his temporary lodging-place, the Swatow Guildhouse, at noon on the day above-mentioned. Owing to the limited nature of the accommodation, the number of the European guests was strictly confined to the members of the diplomatic circle and the two British Admirals. The entertainment consisted of a dinner in both Chinese and European styles, in alternate courses; and the company was composed of the following fifteen individuals, viz:—Sir Thomas Wade, K.C.B., H.B.M.'s Minister, and *doyen* of the diplomatic body; M. de Bützow, Minister of Russia; M. von Brandt, Minister of Germany; The Honorable Geo. F. Seward, Minister of the United States; M. de España, Minister of Spain; Le Vicomte Brenier de Montmorand, Minister of France; Le Chevalier de Schaeffer, Minister of Austria-Hungary; Vice-Admiral Ryder, R.N., Commander-in-chief of the British naval forces in China; Rear-Admiral Lambert, C.B., R.N., commanding the Flying Squadron; M. de Otal, Secretary of the Spanish Legation; and W. F. Mayers, Esq., Chinese Secretary of the British Legation; together with H.E. Li Hung-chang, as host; the envoy-designate to Great Britain, Hsü Ch'ien-shêu; Mr. Tong King-sing, and Mr. Chan Lai-sun, who acted as interpreters.

The banquet was of the sumptuous character usual in Chinese entertainments, and toward its close it became understood that the Governor-General Li was prepared to propose a toast in the foreign fashion. A short speech, which H.E. had himself drafted in Chinese, had been translated into English, and was read to the assembled company by Mr. Tong King-sing, as follows:—

"I now wish to thank my guests for the honour and the pleasure they have conferred upon me in assembling to partake of this poor repast.

Mr Payson
Acc Jac 16 Nov

Ack Nov 20

No 125.

DEPARTMENT RECEIVED NOV 7 1876 OF STATE

United States Legation
Chefoo, September 5th 1876.

DEPARTMENT RECEIVED NOV 7 1876 OF STATE

FOREIGN RELATIONS 76

Mr Seward
to the State Department

The Yunnan Case.

The British Minister has commenced the discussion of commercial issues. His proposal in regard to Lekin taxes. A declaration in regard to the right of the Chinese in dealing with Opium. Its importance. The merits of the Lekin proposal. The other questions likely to be touched. The prospect of an adjustment.

No. 125.

Chefoo. September 5th. 1876.

Honorable Hamilton Fish
Secretary of State
Washington.

Sir.

I wrote in my last dispatch regarding the Yunnan case that the British Minister was insisting in his negotiation with the Viceroy Le Hung-chang, upon the production and trial of the former Governor of Yunnan and of certain other prominent persons who were charged by him with complicity in the attack on Mr. Margary and the Brown party, but that as he had once departed from this line of action he might perhaps be expected to do so again.

What I thus foreshadowed has come about.

After several unavailing conferences Sir Thomas Wade consented to state proposals for a different solution of the difficulty and requested two or three days in which to bring them forward. At about the same

same time I had the opportunity to intimate to him that I understood that he was likely to agree with the Chinese to refer to the Diplomatic Body for discussion the Commercial issues which he had from time to time brought before them, and to suggest that he should be careful in stating the terms of such a reference for the reason that these issues may be called up by any of the Ministers, and it may be more agreeable to them to choose for themselves the moment for the discussion, and because his reference would necessarily be more or less tainted by the fact that it grew out of a grievance with which other powers have no special concern.

Sir Thomas proceeded to say, upon this, that he was not intending to propose a reference of the commercial issues in question to other powers as he had done at Peking. In that instance he had asked the Chinese to call upon his Colleagues and himself to unite with the Foreign Office in a general consideration of those issues. He should now propose to the Viceroy a formal adjustment of the Lekin

question

question. This adjustment would be subject of course to the approval of the British Government and all other Governments having Treaties with China. He then proceeded to state to me the terms contemplated by him which were, roughly, as follows:- The Chinese in concert with the foreign powers shall mark out a district at each port within which no Lekin taxes shall be levied on foreign goods, but beyond which all goods shall be liable to these taxes saving those in transitu under transit-passes, which shall be issued as at present, and that in return for permission to Levy Lekin taxes in this way, the Chinese shall open a very considerable number of ports.

At a subsequent brief interview I expressed to him some doubt as to the merit of his Scheme, and at a later moment he came to me to ask what my objections were.

To this I responded that they were general and special. That I doubted, generally, the wisdom of a settlement with the Chinese in which he should

accept

accept as valuable an adjustment of a grave matter which adjustment would become operative only after it had been approved by all the powers having treaties with China. It would in my opinion be much wiser to secure positive and unqualified terms in settlement of his grievance. To this Sir Thomas said that the question is a very serious one; that his settlement of it would be in the general interest, and that whether or not the approval of the other powers can be secured, he is bound to essay a settlement. He then asked my special objection to his proposal. I responded that it is my understanding of the treaties that Opium may be dealt with by the Chinese Government as it chooses after it has paid the Import duty of Taels 30 and passed into native hands, and that his proposal would make it free at each port within a given radius; that I must look with disfavor upon any scheme which would have this result, and that in my opinion my Government would do the same. To this Sir Thomas

responded

responded that the letter of the treaties would not support my view and that the British Supreme Court at Shanghai had held that the Chinese cannot tax Opium within the port area, but that he knew the intent of the treaties to be such as I had stated, and that he could not consent to construe them in a different spirit.

I answered that I was more than gratified by this avowal of his position in regard to Opium, and that so construed his proposal in regard to Lekin struck me favorably.

You will remember that I have more than once expressed the opinion that foreign imports which have paid the external or tariff dues may be carried to any part of China under the provisions of the treaties without being subject to any further taxation saving the dues levied at the barriers, which latter dues may be commuted under the transit-pass system. The Chinese hold that they have a right to tax foreign good in native hands as they like

like, whether at the ports or in the interior. The English Government has long failed to resist the Chinese upon this point, and it has come about in this way that Lekin taxes are everywhere imposed by them.

If this procedure is likely to become a settled rule it will be much better for all concerned here to accept Sir Thomas Wade's scheme. Perhaps six-sevenths of all the merchandise imported into China is of British origin, and it is not to be expected that other Governments will be disposed to stand under these circumstances upon rights which the chief party in interest is disposed to yield. The opening of a large number of ports, on the other hand, will prove a great boon to foreign interests. I have spoken of this with particularity in my notes on the German treaty revision scheme.

I have been much pleased by the British Minister's unqualified admission of the merit of my view in regard to Opium. So long as China may tax or otherwise deal

deal with Opium in native hands as it likes. so long will there be an answer ready to be returned to those who make the Opium trade a stigma to all foreigners and to the English in particular, for if the Chinese take no steps to prevent the consumption of the drug by their people, having full power to do so, the responsibility of other Governments need not be considered of the most serious sort. But whenever an attempt shall be made to limit the control which the Chinese can exercise over Opium in native hands, a different aspect of the Case will appear.

The credit to be accorded to the British Minister for his position in this matter will be more patent when I state briefly the importance of the interest involved. The Indian Government derives a profit in India from the Opium monopoly which amounts to about Eight Million pounds sterling. The Opium brought to China paid a few years ago for all the merchandise which China had to export and still pays for nearly two thirds of all Exports. In fact England's Commercial

and

and military supremacy in India and the East is very largely due to the drug. It is worth more to her than the gold and silver mines of our Pacific Coast.

It is manifestly not our policy on moral or economical grounds to defend the trade. How far Opium is a deleterious agent with those who use it has been much discussed, doubtless with exaggeration on both sides. That it is very harmful I do not at all doubt, neither can I doubt that it cheapens whatever we have to offer to the Chinese in exchange for their products, and makes these products more dear to us.

In my conversations with my colleague we ran over at some length the merits of the Yunnan Case proper; I could not fail to notice that the answers to my remarks indicative of doubt whether the inquiries made have brought home to the Government of China or any of its officers proof of complicity in the attack on Margary, were not such as to disabuse one of the conclusions which I had reached. I do not mean to say, however, that this

fact

fact relieves the Chinese from a certain responsibility. As I have heretofore pointed out, the Government did not show at the outset a right appreciation of the gravity of the matter, and it may be found that their efforts throughout have not been well calculated to bring out the truth.

I took occasion also in talking with my Colleague to remark upon the importance of the Mint and Post Office proposals, the most unsatisfactory Condition of the judicial system when foreigners and Chinese are the parties Concerned, the abuse of inward-transit passes and the radical imperfection of the outward-transit pass arrangement.

It remains to be seen what kind of a settlement will be effected by the Minister, if any. The Chinese have undoubtedly been brought to feel that the results may be serious if they fail to close matters now. A good deal of what the Minister has to urge is simply the observance of actual Treaty obligations. His main proposal, that

that in regard to Lekin taxes, is based ostensibly upon a give and take principle. He has departed from the more rigid and difficult part of his demands in regard to the Yunnan case proper. Perhaps we may under these circumstances look with some confidence for the settlement of this long standing business.

I have the honor to be,

Sir,

Your obedient servant

George F. Seward

Mr Clemmts
Asks. Approve grant of provisional leave

No 126

Dup Received

DEPARTMENT OF STATE RECEIVED NOV 7 1876

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Answd Nov 13.

United States Legation
Chefoo, September 5th 1876.

Mr. Seward

To the Department of State.

Mr. Sheppard of Tientsin is ill and requests a leave of absence.

Transmits Mr. Sheppard's letter as above No 44, with physicians certificate, and his No 45 asking who shall be left in charge of the Consulate. Transmits also Mr. Seward's response granting provisional leave and stating his opinion that Mr. Pethick should be placed in charge.

No 126.

Chefoo, September 5th 1876.

To

Honorable Hamilton Fish
Secretary of State

Sir,

I have the honor to transmit to you herewith copies of Mr. Sheppard's despatches Numbers 44 and 45, asking for a provisional leave of absence on account of the state of his health, and for instructions whether in case the leave be granted, Mr Pethick or Mr. Moore shall be placed in charge.

I have answered Mr. Sheppard granting the requested leave, and expressing my opinion that Mr. Pethick should be left in charge; I trust that this action will meet your approval.

I regard Mr. Sheppard as a specially competent and useful officer, and ~~am~~ ~~face~~ western, to express my earnest hope that his services may be retained for China.

To

To this end it may be necessary to grant him a leave for a considerable period.

I have the honor to be,
Sir,
Your obedient servant
Wm. A. Seward

Inclosures:-

1. Mr. Shepard to Mr. Seward
   No. 44 of Sept. 1st 1876.
2. From Same to Same
   No. 45 of Sept. 1st 1876.
3. Mr. Seward to Mr. Shepard
   No of Sept. 5th 1876.

Copy

No 114 United States Consulate
Tientsin, September 1st 1856

Hon George F. Seward:
United States Minister
Peking.

Sir,

I am obliged to ask your immediate attention to the unsatisfactory condition of my health, with which you are already personally acquainted.

Inclosed herewith I beg to hand you a Medical Certificate from Dr. Frazer, the English Government Surgeon at this Port. Dr. Frazer, as well as one or two other respectable physicians whom I have recently consulted, is decidedly of the opinion that the present condition of my health requires me to leave China as soon as possible and they all recommend me to do so in season to reach the United States before the coming winter sets in. It is impossible for me to obtain the approval of the State Department in season.

I therefore have to request your approval for leave to quit my post of duty for the period

of

of at least Sixty days, exclusive of the time necessarily occupied in going to and returning from my home in Ohio.

I will be obliged if you will give me an answer to this letter, if possible, before the departure of the Mail for the United States on the 15th inst., when I propose forwarding to the Department my application for a leave of absence, to take effect from the beginning of the third Quarter of the present year. Awaiting your reply

I am,

Sir,

Your obedient Servant

(signed) Eli T. Sheppard

Consul

Cpy

No. 45.

United States Consulate
Tientsin, Sept. 1st 1876.

Hon. George F. Seward
United States Minister
Peking.

Sir.

Referring to the subject of my leave of absence, I have to remark that in March last Mr. Pethick tendered his resignation as Vice Consul at this port, and in consequence thereof I nominated Mr. W. G. Moore to the Department instead.

By the last mail I received a letter from the Department of State, notifying me that my nomination of Mr. Moore was approved and inclosing me Mr. Moore's Official Bond in blank. It was also stated that as soon as the Bond should be received and approved at Washington, a certificate of his appointment bearing date of June 5th last. would be sent to you with an instruction to obtain his official recognition by the Chinese Government.

Now as Mr. Moore at present holds no

Commission

commission, and as no official recognition has consequently been given by the Chinese Government, I am at some loss to know what course to pursue in regard to the matter, as it is certain that I will be compelled to leave my post, on account of sickness, at or before the 1st of the coming month. The Department has not signified to me whether or not Mr. Pethick's resignation has been accepted. It may be that some communication has been sent you upon this point. He is still performing the functions of Vice Consul at this port.

With this state of facts it becomes a question with me whether I shall leave the Consulate in the hands of Mr. Moore or Mr. Pethick. I beg therefore that you will favor me with an early instruction upon this point, and that you will communicate the same also to the Department of State.

I am, Sir,

Your obedient servant.

(Signed) Eli S. Sheppard

Consul.

Copy

Tientsin, North China.
August 30th 1876.

I hereby certify that Eli S. Sheppard, United States Consul at this port, has been suffering for more than a year past from Nervous Debility and Spinal Irritation.

In the month of March this year I strongly recommended him to leave Tientsin for a few months and seek a change of air, which, up to this time, he has not done. Mr. Sheppard's illness is greatly aggravated by this climate, and his condition has now become such that an immediate and radical change is absolutely necessary for his recovery. In my opinion he should leave China immediately.

(Signed) John Frazer
Phys. & Surgeon.

No.

Chefoo, September 5th 1876.

Eli S. Sheppard Esq^r.
U.S. Consul
Tientsin.

Sir.

I have received your despatches No^s 44 and 45.

I will advise the Department of State that it is in my opinion necessary for you to return to America, and ask that such leave may be granted to you as the state of your health may require.

As Mr. Pethick's ~~resignation~~ has not, so far as I can judge, been accepted, as he is qualified to act as Vice Consul and is willing to do so, and as Mr. Moore is not qualified, it seems to me desirable for you to place Mr. Pethick in charge.

I sincerely hope that your visit to America may be beneficial to your health, and that you may be able to return to your post at an early date.

I will transmit a copy of this letter to

the

the Consul General at Shanghai.

I have the honor to be,

Sir,

Your obedient Servant.

No. 127

DEPARTMENT
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7
1876
OF STATE

United States Legation.
Chefoo. September 7th 1876.

The Seward,
To the Department of State.

Dispatches to be published.

Difficult to name such as might be selected, as the copies are not ready. The Kuei dispatches from Hong Kong & Peking might be interesting. Those of 6th & 11th Sept. regarding Jewish case should be given to the public. Those of 8th & 23rd August should not be published.

No. 127.

Chefoo. September 7th, 1876.

Honorable Hamilton Fish,

&c &c &c.

Sir.

I have had the honor to receive to-day your circular of July 21st.

As I have not access here to the copies of the dispatches which I have addressed to the Department since my appointment to be Minister at Peking I find it difficult to select indeed those from which a selection for publication may most properly be made. Those addressed to you from here of August 8th and 23d should not be published now or at any time. Those in regard to Chinese immigration might also be omitted as the subject has become one of a specially delicate nature. Perhaps those in regard to a Mint and Post Office coin be of interest to the public.

I have the honor to be,

Sir,

Your

Ton obeissant Serviteur

Georg F. Kunad.

Mr Payson
ans Jan 16 1877

Mr Bayard

No. 128

Acknowledged Nov 20

United States Legation.

Athens Sept. 11th 1876

Mr Seward

To the Department of State.

Respond for F. R
Instruction with the Report to be noted C.P. J.C.

The Jumma case.

The British Minister expects to reach a settlement. The leading features of the settlement he holds terms regarding the Jumma case proper than were offered on Penang. He terms matter to be settled on a give and take principle. The outward-bound-pass question. and judicial matters.

№ 128.

Chefoo, September 11th 1876.

Honorable Hamilton Fish
Secretary of State
Washington.

Sir,

Referring to my despatch of the 5th instant I have now the honor to inform you that the British Minister has expressed to me his belief that he will be able to conclude his negotiations with the Viceroy immediately. He has also stated to me briefly the terms of the expected settlement.

In the Yunnan case proper he is to receive an assurance that the Memorial and Edict provided for in the Eight Articles shall be at once promulgated. This, as you will remember, is to rehearse certain statements in regard to the occurrence in question, and to express profound regret for it. An indemnity is to be paid, the amount of which has not been agreed upon. An officer may be stationed in Yunnan for five years to watch the course

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of trade, but I do not understand that a trade route is to be opened. The mission to England bearing an expression of the regret of the Government will be despatched at once. In fulfillment of the pledge of the Government to improve diplomatic intercourse some statement is to be made regarding the status of Consular officers vis-a-vis the Chinese provincial officers. The Audience question as not being of practical concern at the moment is wisely, as I think, left untouched, and the Social intercourse matter is also not dealt with. In the matter of Commerce a considerable number of Ports will be opened, and the Lekin question dealt with substantially as stated in my dispatch of the 5th inst. Some of these ports are on the Yang tsze, others are to be mere landing places, as proposed in the German Treaty revision Scheme. Opium is to pay at each port a Lekin tax of Taels 90 a chest in addition to Taels 30 Import tax. The inward-transit-pass system remains as at present. The outward system may be varied in the manner agreed upon in

the

the Alcock rejected Convention. Judicial matters as they affect foreigners and Chinese are to receive attention, and a declaration is made that suits are to be heard in the Court of the Defendant's nationality. The Mint and Post Office proposals may be mentioned. The Minister was not quite prepared to say in what way they could be introduced.

You will see that the main features of Treaty revision as stated in my dispatch on the German Scheme are to receive attention, notably the opening of ports, the outward-transit-pass System, and judicial matters. I do not think that the Mint and Post Office propositions will be overlooked, but Sir Thomas does not seem to make so much of these as I do.

On the other hand the British Minister assents virtually to the vicious LeKin system, and this must undoubtedly operate unfortunately upon the transit-pass system. He assents also to the immediate increase of the Opium duty, or what amounts to the same thing.

In

In answer to my question whether this increase would be held to cover all the taxes which the Chinese may impose on opium, or in other words to limit the control which they may exercise. Sir Thomas answered in an emphatic way "Certainly not." If he had answered otherwise I should have felt it a duty to say at once that we could not assent to the arrangement.

I am of the opinion that the commercial proposals embraced in this scheme will be fairly acceptable to our people, but I question whether they will be equally well received by the English interests involved. Will it not be unfavorably regarded by the opium interest for instance, and will not the Cotton manufacturers say that a mere opening of ports will not effect an adequate set off to the Lekin matter. Sir Thomas Wade does not propose, as I understand, to draw up a Convention, but a protocol. The Viceroy is to bind his Government to accept the settlement provided for in this protocol, in case the British Government is satisfied with it.

Such

Such Convention, however, cannot become operative unless it receives the assent of other powers, for if France or Germany or the United States for instance should insist that they will not allow the Lekin taxation of the goods imported by their merchants, English merchants would be placed at a disadvantage and the Chinese would not receive the stipulated compensation for the opening of ports. So far as I can judge neither of the powers mentioned is likely to take this course, but one cannot foresee the result.

I have consistently urged the British Minister to put matters in such form that our action, when the time comes for it, shall not be in any way complicated by the fact that these negotiations are really a part of the Yunnan Case.

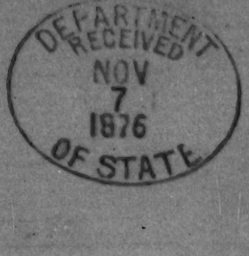
It is to be said generally that he gets no better terms for the Yunnan Case proper than he would have received at Peking, if so good. In other directions he simply insists upon treaty rights, & proceeds upon a give and take principle. Peaceful negotiation might have brought about

about as much or more perhaps, but there will be many who will doubt this. As a matter of principle it would have been better far to have taken the usual course in the negotiation.

I have the honor to be,
Sir,
Your obedient servant
Geo. F. Seward.

Mr Pierpoint
Ack Dec 16 Nov

Answ Nov 20.



Confidential

No. 129.

United States Legation.
Athens. September 11, 1876.

Mr Seward
To the Department of State.

The Jumean case.

The opening dispatches of 5th & 11th should be published. To make the position of affairs clear. The British Minister declines with the least which cannot have been made. He is demanding an indemnity of 1,000,000 francs. The justice of this doubtful. The views of the other Ministers and the merchants, as to the effective settlement will be communicated. Mr Seward will leave for Patras on 15th Nov remained to watch the course of affairs. Hopes that his course will be approved as it has been careful.

Confidential.
No. 129.

Chefoo. September 18th 1876.

Honorable Hamilton Fish.

&c. &c. &c.

Sir.

It will be well, I think, to print my dispatches of the 5th and 11th in order to make more prominent the British Ministers admissions in regard to opium, It is an abominable traffic and so far as Sir Thomas Wade's settlement of the Yunnan case will serve to weaken its position, so far at least it should be satisfactory to the world at large.

I am not sure that the British Minister does not intend to make the drug free within the port area, after it has paid the 30 taels duty, as one conversation in which this point was not entirely explicit. I shall be able to recur to this, perhaps before he closes the negotiations and to renew what with him, if necessary.

Yrs

My colleague could, I think, have accomplished more than he expects to do if he had followed the line indicated in my dispatch of the 5th instant. In return for admitting the Chinese to continue, substantially, their abuses in the taxation of foreign goods, he is to have opened a considerable number of ports. But, as I have shown in previous dispatches, he could have had a number of ports opened without giving anything in return, and these would have been those of most importance. The Likin grievance would have remained in the hands of the foreign Ministers, generally, to be removed or to be traded off for further privileges.

I learn from the Chinese side that he is now demanding an indemnity of 1.000.000 taels or about $1.300.000 gold, considering that the Yunnan outrage has not been brought home to the Chinese Government or authorities, and the reparation which the Government has accorded, for, as I may put it, their failure to prove their innocence, and their dilatoriness in pursuing the the matter the justice of

the

the demand is not manifest. It has greatly excited the Regency and if insisted upon may cause another break-off on the part of the Ministers.

It is likely, I suppose, that Sir Thomas Wade will communicate the protocol to his colleagues when it has been signed, but it may reach you first from London, In either case this embarrassment will be over generally known, and I shall be able to place before you at an early day the views of my colleagues and the reasonable communications so that you may have full information upon which to base your instructions.

I shall probably leave for Peking on the 15th instant, by which time matters may be closed. The Austrian, French, German and Russian Ministers left for the Capital about ten days since. I have considered it desirable to remain here to watch the course of affairs. This has proven a wise course, as I think. I trust that it will receive your approval.

I have the honor to be

Sir

Your obedient servant

George F. Seward.

Mr Pugsley

Separate

Mr Ryder

Ack Dec 16 Nov

Ack Nov 20.

Lehefoo. Sept 11. 1876

DEPARTMENT RECEIVED NOV 7 1876 OF STATE

DEPARTMENT RECEIVED NOV 7 1876 OF STATE

Has forwarded to

the Department of State

Copies for F. R.

The German case.

Has been settled.

No. Separate

Legation, September 11, 1874

Honorable Hamilton Fish

" " "

Sir,

Just as the mail is closing I learn that the British Minister has closed his negotiation. The indemnity to be paid by the Chinese is fixed at 200,000 taels.

I have the honor to be

Sir

Your obedient servant,

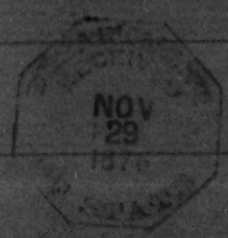
George F. Seward.

FOREIGN RELATIONS 74

A. L. Dis. 1. W. Payson

No. 130.

United States Legation.



Peking, Sept. 27th, 1876.

George F. Seward to the Secretary of State.

Subject.

Receipt of Department despatches.

Synopsis.

Despatches, numbered 36 to 56 inclusive, and Circulars of June 19th, and July 21st have been received.

No. 130.

United States Legation
Peking, Septem. 27th, 1876.

Honorable Hamilton Fish.
Secretary of State.

Sir:—

I have the honor to acknowledge the receipt of Department despatches, numbered 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. and 56. with their several enclosures, and the circulars of June 19th, and July 21st.

I have the honor to be,
Sir.
Your obedient servant.
Geo. F. Seward.

Memo.

The despatches sent to the Department by Mr. Seward while at Chefoo, were sent necessarily without their proper numbers. They should bear numbers as below: viz.

August	7th	reporting arrival at Chefoo.	No. 121.
"	8.	Gunnan Case	" 122.
"	23	" confidential	" 123
Sept	5	Viceroys breakfast.	" 124.
"	5.	Gunnan case	" 125
"	5	Mr. Sheppards leave of absence	" 126.
"	7	Despatches to be printed	" 127
"	11	Gunnan Case	" 128
"	11	do do Confidential	" 129
"	11	do	

United States Legation
Peking Sept. 12th 1876. D.H.

Mr Payson

Dr Adams No. 131 Dated 28th Sept 87

Subject

A Chinaman having been accidentally killed & killed on the Shanghai-Woosung R.R., the British Minister has stopped the running of the trains. American stockholders protest

After an examination it appears to me that no malpractice is necessary. The demands cannot therefore be approved

J H Campbell
29 Nov

No. 131. Four Enclosures.

United States Legation

Peking, September 28. 1876.

Rec'd Nov 29 Dec 18

George F. Seward to the Secretary of State.

Subject.

Shanghai-Woosung Railway.

Synopsis.

A Chinese has been killed by accident. The British Minister, dealing with the road as a British Corporation, at once stopped the running of trains. This course, as matters go in China, likely to complicate matters.

A

A commission, appointed by the Viceroy Li, and the Minister, to settle all questions in regard to the road. The Americans concerned have appealed to Mr. Seward. He responds in the sense of the Departments instructions. He writes also to the Consul General, and the Vice Consul at Tientsin to aid as may be appropriate, in procuring an adjustment.

No. 131. Four Enclosures.

United States Legation

Peking, September 28th, 1876

Honorable Hamilton Fish,

Secretary of State.

Sir:—

On the 3rd day of August, a Chinese was killed by a train on the Shanghai-Woosung railway. This unfortunate incident led, as I am informed, to a renewal of protests against the operations of the Company, by the Taotai at Shanghai. In consequence of these, the British Minister requested that no trains should be run, until further notice from him. In conversation with him afterward

afterward, I learned that he had seen reason to recede from the over strong position which he at first assumed in regard to the status and rights of the Company, and considered the case one to be dealt with very cautiously. He told me, further, that he should endeavor to reach a settlement of the whole matter with the Grand Secretary, Li, after they should have concluded their negotiations in the Yunnan matter.

I could not but doubt, as things go in China, the Minister's wisdom in stopping the trains, particularly before a formal complaint from the higher authorities

Authorities, but I entirely agreed with him that, having done so, his proposed course was the best one to pursue.

At a later moment, I have received from the Americans who are concerned in the line, a letter complaining of the British Minister's action. I enclose a copy of it and of my response, and also copies of letters which I have addressed to the Consul General, and to the Vice Consul at Tientsin in regard to the railway, the latter at the suggestion of the British Minister. 1/131 2/131 3/4/131.

You will notice that I have been careful to keep within right limits in this discussion.

I

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward

Enclosures.

1. Messrs. Aylfhant & Co. et al to Mr. Seward.
2. Mr Seward in reply.
3. Same to Consul General Myers.
4. Same to Vice Consul Pethick.

Despatch No. 131
Enclosure 1.

Shanghai. September 11th. 1876.

Honorable George F. Seward.
United States Minister to China.
Now at Chefoo.

Sir.

The undersigned. American Shareholders in the "Woosung Road Company. (limited) desire to hereby bring to your notice the fact that H.E. Sir Thomas Wade. K.C.B. M.P. Minister to China has ordered that the trains on the road be stopped from running.

The road as you are aware is a private enterprise. and is constructed upon land purchased in the usual way: and paid for at a rate fixed by the "Road Committee in 1872-3. Consisting of the Mixed Court Magistrate. and a foreign assessor.

The undersigned together with the others original proprietors of the line of road. sold the same to a London Company, which latter took out the usual articles of incorporation.

We

we have not received value for our land, merely holding the original Certificates of Stocks.

The work went on under its Coporate Character, nearly to Completion and it was in Contemplation to have it opened to Woosung on the 1st instant. To our surprise however we were informed by the General agents here that an order came from Sir Thomas Wade to stop the ~~tariff~~ traffic on the road, and that in Compliance with that order no trains would be run. This action works a hardship to us, as our Capital, long inverted, lies unproductive, when it has been shown by official returns that with but 4½ miles of the line open, and but one train running, its receipts were one thousand dollars pr month over all expences.

We do not presume to criticise the motive which led Sir Thomas to take the action named, but we do say

that

that from our pratical points of view it is a serious hardship to us as share-holders.

We therefore make these representations to you, hoping that you may deem it appropirate to Confer with Sir Thomas with a view to having the order to stop proceedings on the road reversed, and that you will take such steps in our interest in this matter as may seem to you to be just and Consistant.

We have the honor to be
Your Obedient Servants.

Matthew T. Yates. S. C. Farnham
C. E. Hill.

C. S. Blethen.
J. B. Forbes.
Ed. W. Foslwhite
John. Haif.

Olyphant & Co.
A. A. Hayes Jr.
Talbot Olyphant
C. B. Bradford.

Memo of Shareholders.

C. P. Blethen	10	original	Taels 5000.
L. L. Hayes	10	"	5000
C. E. Hill	4	"	2000
J. H. Voil	1	"	500
F. B Forbes	8	"	4000.
O. B. Bradford	10	"	5000.
Farnham & Lane	new	£20 -	1000.
			Taels 22.500.

Despatch No. 131.
Enclosure 2.

Mr. Seward
to Messrs. Alyphant & Co.
& others.

Peking, Sept 27th, 1876.

Gentlemen:-

I have had the honor to receive your letter in regard to the Shanghai-Woosung Railway.

As the line is now owned practically by a British Corporation, Sir Thomas Wade must be considered authorized to deal with it as his general powers and his instructions may require.

When I learned at Chefoo that he had requested that no trains should be run, I at once represented to him the concern which you have in the enterprise, and asked him to explain to me the occasion of his action. This he did with much courtesy and a statement that he would have

consulted

consulted with me before
taking the extreme step
mentioned if he had been
aware of the large American
interest involved.

The impression which
I have derived from this and
other conversations with him
is that he is by no means
satified of the merits of the
legal status of the enterprise,
but that he is most earnestly
desirous to see the line continued.

His conferences with the
Grand Secretary Li, at Chefoo,
appeared to him, as it did to
me a favorable opportunity
to reach a settlement of the
matter, which would permit of
a continuance of the enterprise,
and would reconcile the
opposition which has been made
in certain quarters.

I am now able to inform
you that the Grand Secretary
has

has appointed, under the "
approval of the Imperial "
Government, two deputies, one
of whom has already proceeded
to Shanghai and Nanking, and
that Mr. Mayers will go to Shanghai
at once to act on behalf of the
Legation. These deputies will
take up the questions involved
and report a way to adjust them
if they can so agree. This adjustment
will be subject to the approval
of the Company and of the high
authorities on each side.

I am assured by the
British Minister that Mr. Mayers
will be anxious to consult with
those who are interested in the
enterprise, directly, or through
the Directorate.

As matters now stand a
great deal depends upon the
action of Mr. Mayers, and I urgently
advise you to do all that you can
to make his mission successful.

Subject

Subject to the limitations of my instructions, and my general sense of the merits of the case, you shall have my best efforts to secure the recognition of the enterprise by the Government.

Sir Thomas Wade considers it desirable that the business be kept out of the newspapers.

I am, etc

(Signed) George F. Seward.

Despatch No. 131.
Enclosure 3.

Copy.
Mr. Seward to Mr. Myers.

Peking, Sept. 29th 11, 1876

Sir:—

I have the honor to transmit to you herewith copies of a letter which I have received from several of our fellow citizens who are interested in the Woosung Railway, and my response.

The interests of the Company being in the charge of the British Minister, it is not expected that you will take any action in regard to them, saving after consultation with, and the full consent of the British Consul at your Port. In case you have occasion however, to speak of the enterprise to the Taotai you should be careful to direct your language in such way as to promote the

interests

interests of the enterprise, and the chances of the adjustment of all questions involved.

You will need to be careful, however, to address what you say to the goodwill of the Chinese, and to make no assertion as to the rights of the Company, either affirmatively, or the reverse.

I may refer you to my despatch No. 4, for a fuller expression of the general line, to which you should adhere, subject to the restrictions contained in this letter.

I shall be pleased to receive full reports from you, from time to time, of the prospects of the Company and of facts which may be of interest.

I am, etc

(Signed) George F. Seward

Despatch No. 131.
Enclosure 4.

Mr. Seward.
To Mr. Pethick.

No.

Peking Sept. 27th 1876.

I learn from Sir Thomas Wade that the Grand Secretary has appointed under Imperial sanction two ~~Commissioners~~ Commissioners who are to proceed to Shanghai to meet a Commission appointed by Sir Thomas Wade with a view to effect an ~~adjustment~~ adjustment of the railway controversy. It would seem as if the matter will be settled, if at all, under the direction of the Grand Secretary.

It will be well under these circumstances to know what attitude may be taken by you if the Secretary shall approach you in regard to the subject or if you have an opportunity to speak with him. I therefore send you herewith for your guidance a copy of an instruction which I addressed to Mr. Bradford on 2nd of February last

Will you please avail of any opportunity which you may have to

urge

urge upon the Secretary ~~xx~~ our view of the case, that is to say, that we are not satisfied with the earlier steps taken ~~nor do we assume to assert that the~~ foreigners concerned may of right go on with the work. Yet it is a most desirable work and that the world will not be able to understand why China should unnecessarily ~~offer~~ oppose it.

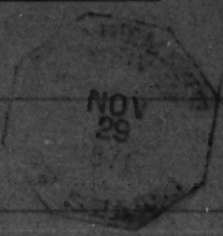
I shall count much upon the effect of your representation.

I have the honor to be
Sir
Y. F. S.

Mr Payson
Ack. Dec. 1.
Ack. 1st
29 Nov

Mr Payson

No. 132.



United States Legation
Peking, October 3rd, 1876

George F. Seward to
the Secretary of State.

Subject.
Visit to Chefoo.

Synopsis
Date of leaving there, and
arrival at Peking.

No. 132.

United States Legation

Peking, October 3rd, 1876

Honorable Hamilton Fish.

Secretary of State.

Sir:

I have the honor to inform you that I left Chefoo on the 15th, and reached here on the 22nd ultimo, five days of this time being consumed in the transit from Tientsin, a distance of 136 miles by the water route.

I have the honor to be,

Sir,

Your obedient servant

Lyons F. Edwards

No. 133.

United States Legation,
Peking, October 3rd, 1876

George F. Seward to
the Secretary of State

Subject.

Despatches to be printed.

Synopsis.

States the numbers of those
from which selections might
properly be made, those of no
public concern, and those
which ought not to be printed
at any time, or under any
circumstances.

No. 133.

United States Legation
Peking, October 3rd, 1876.

Honorable Hamilton Fish,
Secretary of State.

Sir:

Since my return from Chefoo, I have looked over the files of my despatches. Selections for publication might be made, I think from the following:

Nos. 9. 10. 11. 12. 13. 17. 18. 19. 20. 21. 22. 23. 27. 31. 35. 45. 46. 48. 52. 54. 55. 56. 57. 58. 59. 60. 63. 64. 68. 69. 74. 75. 77. 78. 79. 82. 83. 84. 85. 87. 89. 90. 93. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 109. 110. 113. 118. 124. 125. and 128.

The following are of routine

routine character, or of no particular interest to the public, or, for other reasons, should not be published:—
Nos. 1. 2. 3. 4. 5. 6. 7. 8. 14. 15. 16. 24. 25. 26. 28. 29. 30. 32. 33. 34. 36. 37. 38. 39. 40. 41. 42. 43. 44. 47. 49. 50. 51. 53. 61. 62. 65. 66. 67. 70. 72. 73. 76. 81. 86. 88. 91. 92. 94. 107. 108. 111. 112. 114. 115. 116. 117. 119. 120. 121. 122. 123. 126. 127. and 129.

I beg leave to repeat my request that my despatches of August 8th and 23rd, numbered 122. and 123. be not printed. My confidential despatch of the 11th September, No. 129. and one which will go by this mail, marked "Confidential", should also be withheld from publication.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward

Answd as per draft
Dec 7 76

No. 134. Seven Enclosures.

United States Legation

Peking, Oct. 3d, 1876.

George F. Seward

to

the Secretary of State.

Subject.

The Gunnan Case.

Synopsis.

Incloses copy of the agreement made at Chefoo, and copies of letters from the Foreign Office transmitting same, and submitting thereunder the questions referred to in it in regard to etiquette, judicial matters, and

and Lekin taxes. Objections made to this reference by the several Legations. The answer returned: it preserves the advantages of the situation, while placing the several Legations in a more satisfactory position. Discussions regarding various matters, including those stated, likely to begin, Mr. Seward will have instruction covering the greater number of points. The British Minister has shown much deference to Mr. Seward's views. The Mint and Post Office matters.

Answered Dec 19. Ltrs & inclosures

No. 134. Seven Enclosures.

United States Legation.

Peking, Oct. 3rd 1876.

Honorable Hamilton Fish,

Secretary of State

Sir:-

I have the honor to transmit to you herewith, a copy of the agreement entered into at Chefoo on the 18th September between the Plenipotentiaries of Great Britain and China. This document has been communicated to the several Legations by the Foreign Office. They have also sent to us letters communicating the Memorial and Edict in regard to the Yunnan matter, called for by the

1/134.

2/134

3/134

4/134

5/134

the agreement, and asking us to consider the various questions raised in the agreement, and to report our views.

I shall not attempt to offer, in this despatch, any comments upon the agreement, excepting to remark that it will, in some directions, considerably improve the condition of foreigners in China. Its one unfortunate feature, is the proposed settlement of the Lekin question.

Since the receipt of the letters of the Foreign Office in regard to outstanding issues, I have considered, with my colleagues, the Ministers for Russia, Germany, France and the

the answer which we ought to make.

I pointed out to the English Minister, while at Chefoo, the questions which might be raised in this connection. What I said to him was briefly reported in my despatch to you of the 6th September in the following words "he should be careful in "stating the terms of such reference "for the reason that these issues "may be called up by any of the "Ministers, and it may be more "agreeable to them to choose for "themselves the moment for the "discussion, and because his "reference would necessarily be "more or less tainted by the fact that

"that it grew out of a grievance
"with which other Powers have no
"special concern".

After much debate,
during a great part of which I
feared that my colleagues would
state their objections to the
reference in such manner as
to block discussion of the issues
involved, we agreed upon the
6/134 form of a letter which I enclose
herewith. This states, in effect,
that it will be more agreeable for
us to determine with the Foreign
Office what questions need discussion,
and, having settled this part of
the matter, to proceed with efforts
to arrive at conclusions in regard
to them. In one matter, that of
the

the abuses in the taxation of foreign goods, we thought it necessary to say that existing treaty stipulations must be regarded until they have been changed in due course of negotiation.

The British Minister takes our action in good part, and I hope that we may soon enter upon the important work before us. Our discussions will bring under review, all the issues raised by him, and some others. I shall be able to report to you from time to time, the disposition of my colleagues, and our success with the Foreign Office.

The form of Sir Thomas

Wade's

Wade's agreement is such that our discussion, if conducted on his basis, would have had no unpleasant connection, necessarily, with the Yunnan matter. The situation in this respect is made better, however, by the answer which we have returned to the Foreign Office, as now, whatever may be done will be on the line of open negotiation and without pressure, or the appearance of it.

I am, happily, in possession of your instructions, in regard to several of the questions in issue, and may hope for further instructions soon, particularly in answer to my despatch on the German treaty revision. I shall

shall then be able to enter "
intelligently upon our "
discussions. I ought to make
here my acknowledgements to
the British Minister for the
deference with which he has
treated the suggestions which I
have from time to time, made to
him. Since my return to Peking
he has informed me that he threw
his agreement into its present
form, separating the Yunnan
case from the commercial and
other issues, partly to meet my
statement of the difficulty which
I should find in approaching
these issues if connected with
the Yunnan matter. The pledges
which he received last year from
the

the Foreign Office, to which he refers in the agreement, enabled him to do this. He has also told me that what I said to him at Chefoo, as to the desirability of procuring the unconditional settlement of such matters as he could properly close, arrested his attention, and that to this is largely due the fact that he closed for the opening of ports, instead of leaving them "in the air" pending the discussion of general issues. The judicial matter is also one which I especially urged upon his attention, and with his disposition of which I am especially pleased.

In regard to the Kaiping and

and Post Offices, he states that he was not aware that the Government was so far committed to them as my information shows. If he had known the situation in this respect, he would have drawn into his agreement, a suitable declaration in regard to them. I cannot but regret this, but, evidently, having received my information from Mr. Hart and otherwise from the Chinese side, I was not at liberty to disclose the facts to him, pending the adjustment. I shall bring these matters up in the discussion, which I hope will now soon ensue.

I have the honor to be,

Sir

Sir,

Your obedient servant.

Geo. F. Seward

Enclosures.

1. Text of agreement between the Plenipotentiaries of Great Britain and China.
2. Prince Kung to Mr. Seward.
3. same to same
4. same to same
5. same to same
6. Mr. Seward in reply.
7. Sir Thomas Wade to Mr. Seward.

Despatch No. 134
Enclosure 1.

Agreement negotiated between Sir Thomas Wade, K.C.B. Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of China; and Li, Minister Plenipotentiary of His Majesty the Emperor of China, Senior Grand Secretary, Governor-general of the province of Chihli, of the first class of the third order of nobility.

The negotiations between the Ministers abovementioned has its origin in a dispatch received by Sir Thomas Wade in the spring of the present year from the Earl of Derby, Principal Secretary of State for Foreign Affairs, dated 1st January, 1876. This contained instructions regarding the disposal of three questions;— First, a satisfactory settlement of the Yunnan affair; Secondly, a faithful fulfillment of engagements of last year respecting intercourse between the high officers of the two Governments;— Thirdly, the adoption of a uniform system in satisfaction of the understanding arrived at in the month of September, 1875 (8th moon of the 1st year of the reign Kwangsü) on the subject of the rectification of conditions of trade. It is to this dispatch that Sir Thomas Wade has referred himself in discussions on these questions with the Tsungli Yamun,— farther reference to which is here omitted as superfluous. The conditions now agreed to between Sir Thomas Wade and the Grand Secretary Li are as follows:—

Sect. I. — Settlement of the Yunnan Case.

i.) A memorial is to be presented to the Throne whether by the Tsungli Yamun, or by the Grand Secretary Li is immaterial, in the sense of the memorandum prepared by Sir Thomas Wade. Before presentation, the Chinese text of the memorial is to be shown to Sir Thomas Wade.

ii.) The memorial having been presented to the Throne, and the Imperial Decree in reply received, the Tsungli Yamun will communicate copies of the Memorial and Imperial Decree to Sir Thomas Wade, together with the copy of a letter from the Tsungli Yamun to the provincial Governments, instructing them to issue a proclamation that shall embody at length the above Memorial and Decree. Sir Thomas Wade will then reply to the effect that for two years to come officers will be sent by the British Minister to different places in the provinces to see that the proclamation is posted. On application from the British Minister, or the Consul of any port instructed by him to make application, the high officers of the provinces will depute competent officers to accompany those so sent to the places which they go to observe.

iii.) In order to the forming of such regulations as will be needed for the conduct of the frontier trade between Burmah and Yunnan, the Memorial submitting the proposed settlement of the Yunnan affair will contain a request

that

that an Imperial Decree be issued directing the Governor-general and Governor, whenever the British Government shall send officers to Yunnan, to select a competent officer of rank to confer with them, and to conclude a satisfactory arrangement.

iv.) The British Government will be free, for five years from the first of January next (being the 17th day of the 11th moon of the 2 year of the reign Kwangsü) to station officers at Tali-fu, or at some other suitable places in Yunnan, to observe the conditions of trade, to the end that they may have information upon which to base the regulations of trade when these have to be discussed. For the consideration and adjustment of any matter affecting British officers or subjects, these officers will be free to address themselves to the authorities of the province. The opening of the trade may be proposed by the British Govern^t as it may find best, at any time within the term of five years, or upon expiry of the term of five years. Passports having been obtained last year for a Mission from India into Yunnan, it is open to the Viceroy of India to send such a Mission at any time he may see fit.

v.) The amount of indemnity to be paid on account of the families of the officers and others killed in Yunnan; on account of the expenses which the Yunnan case has occasioned;

occasioned; and on account of claims of "
British merchants arising out of the
action of officers of the Chinese Govern-
ment up to the commencement of the
present year, Sir Thomas Wade takes
upon himself to fix at Two Hundred
Thousand Taels payable on demand.
vi.) When the case is closed, an Imperial
letter will be written, expressing regret
for what has occurred in Yunnan. The
Mission bearing the Imperial Letter
will proceed to England immediately. Sir
Thomas Wade is to be informed of the "
constitution of this Mission for the "
information of his Government. The text
of the Imperial Letter is also to be com-
municated to Sir Thomas Wade by the
Tsungli Yamun

Sect. II. – Official Intercourse.

Under this heading are included the conditions of intercourse between high officers in the Capital and the provinces, and between Consular officers and Chinese officials at the ports; also the conduct of judicial proceedings in mixed cases.

i.) In the Tsungli Yamun's Memorial of the 28th of September 1875, the Prince of Kung and the Ministers stated that their object in presenting it had not been simply the transaction of business in which Chinese and foreigners might be concerned. – Missions abroad and

the

the question of diplomatic intercourse lay "
equally within their prayer.

For the prevention of further misunderstanding upon the subject of intercourse and correspondence, the present conditions of both having caused complaint in the Capital and in the provinces, it is agreed that the Tsungli Yamun shall address a circular to the Legations, inviting foreign Representatives to consider with them a code of etiquette, to the end that foreign officials in China, whether at the ports or elsewhere, may be treated with the same regard as is shown to them when serving abroad in other countries, and as would be shown to Chinese agents so serving abroad. The fact that China is about to establish Missions and Consulates abroad render an understanding on these points essential.

ii.) The British Treaty of 1858, Art. XVI., lays down "that Chinese subjects who may be "guilty of any criminal acts towards British "subjects, shall be arrested and punished by "Chinese authorities according to the laws of "China. British subjects who may commit "any crime in China, shall be tried and pu-"nished by the Consul, or any other public "functionary authorized thereto, according to "the laws of Great Britain. Justice shall "be equitably and impartially administered "on both sides."

The words "functionary authorized thereto" are

are translated in the Chinese text, British Government.

In order to the fulfillment of its treaty obligations, the British Government has established a Supreme Court with a special code of rules which it is now about to revise. The Chinese Government has established at Shanghai a Mixed Court; but the officer presiding over it, either from lack of power, or dread of unpopularity, constantly fails to enforce his judgments.

It is now understood that the Tsungli Yamun will write a circular to the Legations inviting Foreign Representatives at once to consider with the Tsungli Yamun the measures needed for the more effective administration of justice at the ports open to trade.

iii.) It is agreed that whenever a crime is committed affecting the person or property of a British subject, whether in the interior or at the open ports, the British Ministers shall be free to send officers to the spot, to be present at the investigation. For the prevention of misunderstanding on this point, Sir Thomas Wade will write a note to the above effect, to which the Tsungli Yamun will reply, affirming that this is the course of proceedings to be adhered to for the time to come.

It is further understood that so long as the laws of the two countries differ from each other, there can be but one principle

to

to guide in judicial proceedings in mixed cases in China, namely, that the case is tried by the official of the defendant's nationality, the official of the plaintiff's nationality merely attending to watch the proceedings in the interests of justice. If the officers attending be dissatisfied with the proceedings, it will be in his power to protest against them in detail. The law administered will be the law of the nationality of the officer ~~trying~~ hearing the case. This is the meaning of the words, hwui t'ung, indicating combined action in judicial proceedings in Art. XVI. of the Treaty of Tientsin, and this is the course to be respectively followed by the officers of the two nationalities.

Sect. III. — Trade.

i.) With reference to the area within which, according to the Treaties in force, likin ought not to be collected on foreign goods at the open ports, Sir Thomas Wade agrees to move his Government to allow the ground rented by foreigners (the so-called Concessions) at the different ports to be regarded as the area of exemption from likin; and the Government of China will thereupon allow Ichang in the province of Hupeh, Wuhu in Nganhwui, Wänchow in Chehkiang, and Peihai (Pakhoi) in Kwangtung, to be added to the number of ports open to trade, and

to

to become consular stations. The British Government will further be free to send officers to reside at Chungking to watch the conditions of British trade in Szechuen. British merchants will not be allowed to reside at Chungking, or to open establishments or warehouses there so long as no steamers have access to the port. When steamers have succeeded in ascending the river so far, further arrangements can be taken into consideration

It is further proposed as a measure of compromise, that at certain points on the shore of the Great River, namely, Ta-tung and An-ching [安慶 Ngan-king] in the province of Nganhwui, Hukow in the province of Kiangsi, Wu-hsueh, Lu-chi-kou and Sha-shi in Hukwang, - these being all places of trade in the interior, at which, as they are not open ports, foreign merchants are not legally authorized to land or ship goods, steamers shall be allowed to touch for the purpose of landing or shipping passengers or goods; but in all instances by means of native boats only, and subject to the regulations in force affecting native trade.

Produce accompanied by a half-duty certificate may be shipped at such ports, by the steamers, but may not be landed by them for sale.

And

And at all such points, except in the case of imports accompanied by a transit duty certificate, or exports similarly certificated, which will be severally passed free of likin on exhibition of such certificates, likin will be duly collected on all goods whatever by the native authorities. Foreign merchants will not be authorized to reside or open houses of business or warehouses at the places enumerated as ports of call.

ii.) At all ports opened to trade, whether by earlier or later agreement, at which no settlement area has been previously defined, it will be the duty of the British Consul, acting in concert with his colleagues, the consuls of other Powers, to come to an understanding with the local authorities regarding the definition of the foreign settlement area.

iii.) On opium, Sir Thomas Wade will move his Government to sanction an arrangement different from that affecting other imports. British merchants, when opium is brought into port, will be obliged to have it taken cognizance of by the Customs and deposited in bond, either in a warehouse or in a receiving hulk, until such time as there is a sale for it. The importer will then pay the tariff duty upon it, and the purchasers the likin, in order to the prevention of evasion of duty. The amount of likin to be collected will be decided by the different provincial Govern^ts according

according to the circumstances of each.

iv.) The Chinese Government agrees that Transit duty certificates shall be framed under one rule at all the ports, no difference being made in the conditions set forth therein; and that so far as imports are concerned, the nationality of the person possessing and carrying these is immaterial. Native produce from an inland center to a port of shipment, if bona fide intended for shipment to a foreign port, may be, by treaty, certificated by the British subject interested, and exempted by payment of the half duty from all charges demanded upon it en route. If produce be not the property of a British subject, or is being carried to a port not for exportation, it is not entitled to the exemption that would be secured by the exhibition of a transit duty certificate.

The British Minister is prepared to agree with the Tsungli Yamun upon rules that will secure the Chinese Government against abuse of the privileges affecting native produce.

The words nei-ti (inland) in the clause of Art. VII. of the Rules appended to the tariff regarding carriage of imports inland, and of native produce purchased inland, apply as much to places on the seacoasts and rivers shown as to places in the interior not open to foreign trade; - the Chinese Government having the right to make arrangements for the prevention

of

of abuses thereat.

v.) Art. XIV. of the Treaty of Tientsin prescribes no limit to the term within which a drawback may be claimed upon duty-paid imports. The British Minister agrees to a term of three years, after expiry of which no drawback shall be claimed.

vi.) The foregoing stipulations that certain ports are to be opened to foreign trade, and that landing and shipping of goods at six places on the Great River is to be sanctioned, shall be given effect to within six months after receipt of the Imperial Decree approving the Memorial of the Grand Secretary Li.

The date for giving effect to the stipulations affecting exemption of Imports from Likin taxation within the foreign settlements, and the collection of likin upon opium by the Customs Inspectorate at the same time as the tariff duty upon it, will be fixed as soon as the British Government has arrived at an understanding on the subject with the foreign Governments.

vii.) The Government of Hongkong having long complained of the interference of the Canton Customs revenue cruisers with the junk trade of that colony, the Chinese Government agrees to the appointment of a commission to consist of a British consul, an officer of the Hongkong Government, and a Chinese official of equal rank, in order to the establishment of some system that shall

shall enable the Chinese Government to protect its revenue without prejudice to the interests of the colony.

Separate Article.

Her Majesty's Government having it in contemplation to send a mission of exploration next year by the way of Peking through Kansuh and Koko-nor, or by way of Szechuen to Tibet, and thence to India, the Tsungli Yamun, having due regard to the circumstances, will when the time arrives, issue the necessary passports, and will address letters to the high provincial authorities, and to the Resident in Tibet. If the Mission should not be sent by these routes, but should be proceeding across the Indian frontier to Tibet, the Tsungli Yamun, on receipt of a communication to the above effect from the British Minister, will write to the Chinese Resident in Tibet; and the Resident, with due regard to the circumstances, will send officers to take due care of the Mission, and passports for the Mission will be issued by the Tsungli Yamun, that its passage be not obstructed.

Done at Chefoo in the province of Shantung, the thirteenth day of September, in the year of our Lord One thousand eight hundred and seventy-six.

Despatch No. 134
Enclosure 2.

Prince Kung Chief Secretary of State for Foreign Affairs, herewith makes a communication.

Upon the 17th instant the Privy Council transmitted an Imperial Decree in response to a memorial from Li Hung Chang who in obedience to the Imperial commands had proceeded to Chefoo, and adjusted the Yunnan business with the British minister.

The English Interpreter, Margary, upon the frontiers of China, in Yunnan had lost his life. The several local officials, civil and military, failed to afford protection, and, being thus remiss in duty, merit punishment in proportion to the gravity of their fault.

Since however Li Hung Chang memorializes, that the British Minister Sir Thomas Wade is of opinion that to afford sufficient protection in the future is better than to punish for past derelictions, and hence requests that the

various

various criminal parties in the case be pardoned, it is decreed accordingly to his request. With the exception of "Chiang Tsung Han," the General in command at Ting Yueh chen and Wu Chi Liang the Sub Prefect at Ting Yueh who have already been deprived of office; and need not be farther punished; Lieut, Colonel Li, Chen Kuo, and the criminals Ertungwa-futu & others, eleven in number may all receive pardon.

Margary was a British official deputed, under passport to proceed through Yunnan into Burmah, and both in going and returning should have received full protection. But on the contrary he was suddenly murdered, and the members of his party were beaten, plundered, and driven back, a proceeding well calculated to destroy amicable relations of the Empire. Hereafter the Viceroys and Governors of the several provinces, must with great care give heed

to

to the Edict issued upon the 9th October last, and promulgate the most stringent orders to their subordinate officials that whoever meets a foreigner bearing a passport going into the interior must treat him in strict accordance to Treaty, and afford satisfactory protection. If there arise cases of ill treatment or violence, the provincial authorities of high and low grade will be called to account, and the Foreign office is directed to prepare a suitable form of proclamation and forward it to the several provinces, that the officials may act in accordance to its terms, and instruct all authorities to conform to treaty stipulations in order to preserve international peace.

In case foreign officials or subjects are Killed, the real criminals must be sought out and punished at once and no delays be allowed to aggravate the offence.

The Margary case is now settled.

In

In the matter of trade upon the Yunnan frontier, it is ordered that, wherever the British Government shall appoint officials, the Viceroy and Governor of Yunnan, shall appoint proper deputies to proceed to the frontier, and examine into the circumstances and report suitable regulations. Respect this.

The Privy Council has also transmitted the Imperial Decree approving and ordering carried into effect the Convention submitted by Li Hung Chang.

A copy of this Convention will be forwarded to Y. E. at a future days In the meantime I beg to inform you of the Edicts of His Majesty as mentioned above.

Sept. 18th 1876.

Despatch No. 134.
Enclosure 3.

Prince Kung Chief Secretary of State for Foreign Affairs herewith makes a communication.

Upon the 17th instant this Office received the memorial of Li Viceroy, Member of the Grand Council, and Special Envoy reporting the settlement of the Yunnan case; and a Convention agreed upon with Sir Thomas Wade the British Minister, together with the Imperial approval as follows:- "Let it be carried into effect as planned, Respect this!"

This Office has already transcribed the Imperial Edict and forwarded it for Y. E's information as also a copy of the several Articles of the Convention.

It will be noticed that the Convention contains the following language:- "The 16th Article of the "treaty made with England in "the 8th year of Hsien Fung ( ) states

states that x x x x

x x

British subjects who may commit any crime in China shall be tried and punished by the Consul, or other public functionary, authorized thereto according to the laws of Great Britain Justice shall be equitably and impartially administered on both sides.

"It appears that the English text of the
"original treaty states that English
"subjects, guilty of offences shall be
"dealt with by English Consuls or
"such other officials as may be
"appointed, etc; while in the
"Chinese text the whole is covered
"by the two words "English Govern-
"ment Heretofore the British Gov-
"ernment has drawn up a careful
"course of procedure appointed
"judicial officers, and established
"a Supreme Court at Shanghai
"in order to carry into effect this
"article of the treaty.

" The British Government has at
"the present moment, revised and
"perfected the judicial code here-
"tofore established a Mixed Court
"at Shanghai for the trial of cases
"in which Chinese and foreigners
"are conjointly involved. But the
"officials deputed (Chinese) whether
"because of inadequate authority
"or through fear of the enmity of
their

"their own people, continually fail
"to do justice, etc" the foregoing language
being in explanation of the 16th Article
of the British treaty which relates to
trial of mixed cases. This Office
has already addressed the British
Minister upon this subject.

This Article also declares that
"It is agreed that the various
"Ministers resident at Peking shall
"be addressed by the Foreign
"Office with a request that they
"will meet in conference with
"the Foreign Office in order to fix
"upon a code of procedure for
"international cases arising at
"the ports in order to the further-
"ance of justice and equity, etc"
The idea is that, if possible, a
single course of procedure shall
be determined on for all inter-
national cases.

Your Excellency is therefore
requested to consult with the
several Ministers resident in
the

the capital and agree with them upon an acceptable system, and thereafter to address this Office, and submit the result of your deliberations for its acceptance.

Peking Sept. 26th 1876.

To George F. Seward. Esqre
&c. &c.

Despatch No. 134.
Inclosure. 4.

Translation.

Prince Kung Chief Secretary of State for Foreign Affairs herewith makes a communication.

Upon the 17th instant this Office received the memorial of Li, viceroy, Member of the Grand Council, and Special Envoy reporting the settlement of the Yunnan case, and the Convention agreed upon with Sir Thomas Wade, the British Minister, together with the Imperial approval as follows:— "Let it be carried into effect as "planned. Respect this."

This Office has already transcribed the Imperial Edict and forwarded it for H. E's information, as also a copy of the several Articles of the Convention.

The Convention states that upon the 9th October last the Foreign Office memorialized the Throne as follows:— x x x x x "Their various Memorials recommending

recommending the providing of persons skilled in foreign affairs, was not merely in order to the management of international matters, but the entire subject of reciprocal diplomatic intercourse was also included etc. To the prevention of further misunderstanding upon the subject of intercourse and correspondence, the present conditions of both having caused complaint in the Capital and in the provinces, it is agreed that the Tsung li Yamen shall address a Circular to the Legations inviting Foreign Representatives to consider with them a code of etiquette, to the end that foreign officials in China, whether at the ports or elsewhere may be treated with the same regard as is shown to them when serving abroad in other countries, and as would be shown to Chinese Agents so serving abroad.

The fact that China is about to

establish

establish Missions and Consulates abroad renders an understanding on these points essential."

This Article in its import evidences clearly the sincere desire of this Government for amicable relations. It is certainly desirable that the various bearings of the question should be fully considered and a code of etiquette agreed upon, with the hope that international relations may become more friendly.

It therefore becomes my duty to transcribe the Article in question, and address Y. E. and the other Ministers, that you may confer together at your convenience, and that, when you shall have arrived at an agreement, you will be so kind as to address this Office in order that a joint consideration and a mutual agreement may be arrived at.

Peking, Sept. 26. 1876.

To George F. Seward, Esq.
&c &c

Despatch No. 134.
Enclosure 5.

Prince Kung Chief Secretary of State for Foreign Affairs herewith makes a communication.

Upon the 17th instant this Office received the memorial of Li, Viceroy, Member of the Grand Council, and Special Envoy reporting the settlement of the Yunnan case, and Convention agreed upon with Sir Thomas Wade, the British Minister, together with the Imperial approval as follows;- "Let it be carried into "effect as planned. Respect this!"

This Office has already transcribed the Imperial Edict and forwarded it for H.E.'s information, as also a copy of the several Articles of the Convention.

The convention contains the following language "With reference to the area within which, according to the treaties in force, Lekin ought not to be collected on foreign goods at the open ports, Sir Thomas Wade agrees

"agrees to move his Government to
"allow the ground rented by forei-
"gners (the so called concessions) at
"the different ports to be regarded as
"the area of exemption from Lekin &c. &c.

It is further stated that; —

"On opium Sir Thomas Wade will
"move his Government to sanction
"an arrangement different from
"that affecting other imports.
"British merchants when opium
"is brought into a port will be
"obliged to have it taken cognizance
"of by the Customs, and deposited in
"bond, either in a Warehouse, or a
"receiving hulk, until such time
"as there is a sale for it. The importer
"will then pay the tariff duty upon
"it, and the purchasers the Lekin;
"in order to the prevention of eva-
"sion of duty. The amount of Lekin
"to be collected will be decided by
"the different provincial Govern-
"ments, according to the circumstances
"of each".

The Government of China, heretofore because of military necessities has levied a Lekin tax both in the interior and at the Treaty ports, levying this Lekin upon country products as well as upon foreign goods which had not paid the half duty extra. But foreign merchants have asserted that foreign merchandise, having paid regular duty, is not subject to the Lekin, prior to its having been entered for transit duty. This divergence of opinion has been the subject of repeated discussion. A Convention having been agreed to Sir Thomas Wade has consented to request his Government to address the various Powers with a view to securing their assent to the establishment of port limits, within which foreign merchandise shall be free from Lekin, with the desire to avoid future differences of opinion. In regard to opium it is agreed to establish a special

proceedure

procedure by which both the regular tax and the Lekin shall be collected in new Yamens. (5) Further, the amount of regular tax and Lekin to be collected is to be made a matter for consideration by the several provincial authorities, as a matter of grave importance. (Prior to the establishment of this new rule, the old produce (procedure) will continue in force) But the establishment of the port limits for the protection of foreign merchandise from the Lekin, and the special proceedure for the levy of regular duty and Lekin upon opium these two articles, it is distinctly agreed shall shall await the correspondence between Great Britain & other Powers, when a day shall be fixed for their taking effect.

It becomes our duty to addrefs Y.E. in regard to these two Articles with the request that you will consult

consult with several Ministers and will further address Your Government, requesting its opinion and decision. When the several Powers shall have come to a satisfactory decisions, Y. E. will please address this Office that conference and agreement may be had.

Peking September 28th 1876.

To George F. Seward Esqre
de de. de.

Adieu

Despatch No. 184.
Enclosure 6.

Mr. Seward to the Foreign Office.

The undersigned has the honor to acknowledge receipt of Your Imperial Highness and Your Excellencies' despatches of the 26th and 28th September in which referring to several clauses of the agreement signed at Chefoo by the Plenipotentiaries of China and Great Britain, you wrote me as well as my colleagues the representatives of the foreign powers to consider conjointly the questions referred to and to inform you of the results of our deliberations.

While thanking Your Imperial Highness and Your Excellencies for the above communications, I beg leave to inform you that it is in my opinion advisable as it would be also conformable with the established custom of diplomatic intercourse that we should first of all consider and decide what questions require a settlement and are to be brought under

under discussion. I have consulted with my colleagues on this point and as a complete understanding exists between us regarding this way of procedure. I beg leave to inform Your Imperial Highness and Your Excellencies that I shall be ready whenever you may find it convenient to confer with you in view of the object above stated and having once determined the points to be discussed to come with you to an understanding on the various questions that may become the subject of our deliberations.

In regard however to Likin taxes and proposed reference to the several Governments I must at once remark that negotiations should be pursued in the usual manner and that pending the result I cannot consent to the abridgment of existing treaty stipulations.

I take this occasion to renew to Your Imperial Highness and your Excellencies the expression of my consideration.

George F. Seward.
Minister Plenipotentiary
of the U.S.

Legation of the United States.
Peking October 2nd 1876.

Despatch No. 134
Enclosure 7.

Copy.

Peking, 30th September, 1876.

Monsieur le Ministre et cher collègue:—

I found on my return to Peking last week, that the Chinese text of the Agreement between the Grand Secretary Li Hung Chang and myself, signed at Chefoo on the 13th instant, had already been communicated to the Representatives of the Treaty Powers, and that copies had been also forwarded to the Provincial Governments. As I have had the honor to state to such of my colleagues as are within reach, the English text is being printed at Shanghai, and as soon as I receive it in this form, it is my purpose similarly to communicate copies to all.

Before signing the Agreement I declared my readiness, if, on my arrival here, the Memorials and Decrees referred to in the Agreement should

should be immediately published, and the Circulars for the " expedition of which the Agreement further stipulated were immediately written to telegraph to my Government that I had taken upon me to close the Gunnan case. The engagements above referred to having been so far satisfied, I beg to acquaint you, Monsieur le Ministre that I have this day informed the Prince of Kung that I have sent the promised message to my " Government.

I avail myself of this opportunity, etc, etc

(Signed) Thomas Francis Wade

The Yunnan Agreement

Mr Howard transmits copy of agreement between the Foreign Office and British Minister on the Yunnan Affair officially communicated by the Foreign Office to the Several Legations. The Legations are invited to consider —

The Audience Question
Judicial Matters, and
The Lekin Taxes

Audience On the question of Audience and etiquette it does not appear that anything can be added to the instructions heretofore given by the Dept to the Legation in China. Mr Howard should ~~consult with~~ keep in view in the discussion of this question that it is our desire to accord for our representatives in China the same privileges and courtesies that we will accord to Chinese representatives in this country

Judicial Instruction No 85 to Mr Howard gives views of Dept in relation to Judicial matters. The present appears to be an opportune time to press the question of Treaty Courts and to enter into some

preliminary arrangements for their establishment in China. To establish such Courts would, however, require several years before they could be in practical operation, and in the meantime the present system, with such modifications and improvements as experience has shown to be desirable might be continued.

Likin

No instructions have at any time been given in regard to the Likin taxes. The stipulations of Article X of the British treaty of 1842 and of Article XXVIII of their treaty of 1858, and of Article XXIII of the French treaty of 1858 are direct and explicit in regard to the taxes that may be levied by the Chinese government on Foreign goods. After the payment of the tariff and of transit duty such goods are not liable to any further tax, and the Chinese authorities have no right whatever to ~~enforce~~ levy and collect it. If they do so, it is in direct con-

- transition of treaty stipulations
It would seem that more would
be gained by adhering to the
~~present~~ existing stipulations of
the treaties in reference to taxation
and insisting on their strict
observance than in any change
that has yet been suggested.

Ans 1539 Ask Dec 1.
not to be printed

Confidential Mr Bayard

No 135.

United States Legation
Peking October 4th, 1876.

George F Seward to
the Secretary of State

Subject.
The Yunnan Agreement.

Synopsis.
The objections to the references
thereunder of various questions
to the Diplomatic body
considered offensive. There
has been much danger that
the angry feeling occasioned
would block cooperation in
regard

regard to the matters involved and others. This danger happily removed. The temper and disposition of several of the representatives. The situation now such that business may go forward. The British Minister appreciates Mr. Seward's course and the Foreign Office has formally thanked him for friendly advice given at Chefoo.

Confidential.

No. 135.

United States Legation

Peking, October 4th 1876

Honorable Hamilton Fish.

Secretary of State.

Sir:

Referring to my despatch No. 134, I beg to state that I have had much anxiety lest my colleagues should entirely throw away the opportunity to discuss the various important issues raised in the agreement at Chefoo, through angry feeling occasioned by the form of the reference made to us, the unfortunate Lekin clause, and other reasons. I may say, indeed, that it was my

my unwillingness to join them in sending an unbecoming answer to the Foreign Office which resulted in the letter actually written. This letter, as I state it in my despatch is quite acceptable to Sir Thomas Wade, who understands that I have befriended him in the matter, and will, I think, be accepted, in good part, by the Foreign Office.

What I have learned from Sir Thomas in regard to the Mint matter, and the general result of various conversations with him, and with Mr. Hart, leads me to dismiss a suspicion which I

I had that the two (Irishmen and warm friends) were working together. But I am still unable to explain Mr. Hart's alarming letters to the Viceroy.

Since my return to Peking, four leading members of the Foreign Office have called upon me and stated that my course at Chefoo was considered by them to be in the interests of peace, and friendly, and that they are grateful for it. The Grand Secretary, Li, had expressly written to them, to this effect, from Chefoo and Tientsin.

I am really in hope that now a new departure may be taken here, among the

foreign

foreign representatives. There has been nothing like harmonious working for the last eighteen months. This has been partly due to natural national prejudices, and partly to the idiosyncracies of the British, French, and German Ministers. The first named has been very plainly talked to, and, I think, recognizes the fact that he has been, in some respects, justly censured. The French Minister, or rather Chargé, has been replaced by an able and right feeling man, M. Brenier de Montmorand, formerly my colleague at Shanghai. The German Minister

is

is able, but imperious. He, however, is a thorough believer in the policy of cooperation, and it is his interest to work with the rest of us, for the reason that the results will appear in the revision of the German Treaty. I may therefore be allowed to indulge the hope that the transaction of business will not hereafter be hampered, at least for a time, by the personal policy or peculiarities of the members of the diplomatic corps.

This despatch, of course, should not be printed at any time.

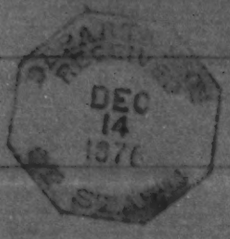
I have the honor to be, Sir,

Your obedient servant.

Geo. F. Seward

Act'g Dep't. W. Payson

No. 136.



United States Legation
Peking, October 14th, 1876.

George F. Seward to the Secretary of State.

Subject.

Despatches received.

Synopsis.

Despatches numbered from 57 to 70. inclusive, and one despatch without number, have been received.

No. 136.

United States Legation
Peking, October 14th, 1876.

Honorable Hamilton Fish.
Secretary of State.

Sir:

I have the honor to acknowledge the receipt of your despatches, numbered 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. and 70; also an unnumbered despatch in regard to the estate of King & Co. dated July 24th, 1876.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Evarts

Mr Payson. asst. dated Dec 19.
Copy to Secy Navy - did so. Dec 15.
file in dec

Mr Payson

No. 137.

United States Legation
Peking, October 14th, 1876.

George F. Seward to
the Secretary of State.

Subject.

Visit of Rear Admiral Reynolds to Peking.

Synopsis.

The Admiral with officers of his staff, and others, and the commanders of the "Ashuelot" and "Palos" have visited Peking. The usual courtesies exchanged with the Foreign Office.

No. 137.

United States Legation
Peking, October 14th, 1876.

Honorable Hamilton Fish.
Secretary of State.

Sir:

I have the honor to
inform you that Rear Admiral
Reynolds, in command of the
Asiatic Squadron, with Captain
Young of his flagship, the
"Tennessee", Lieutenants White
and Lyon of his staff,
Commander Matthews of the
"Ashuelot", and Lt. Commander
Barker of the "Palos", and seven
other officers have just left
Peking after a visit of a
week.

week. The usual courtesies were interchanged with the members of the Foreign Office and the several Legations.
At Tientsin, the Admiral will call on the Grand Secretary, Li.

I have the honor to be,
Sir,
Your obedient servant.
(Geo F. Dewey)

Mr Payson

Dr Seward No. 138 Dated 14th Oct 87

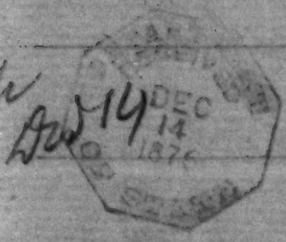
Subject

Chinese authorities proposal to assume suspension by purchase of the Woosung RR with a view to discontinuing the line.

After an examination it appears to me that the despatch simply requires acknowledgment. The Woosung RR is a British enterprise

J A Campbell
14 Oct

No. 138. One Enclosure.



United States Legation.

Peking, October 14th, 1876.

George F. Seward to

the Secretary of State.

Subject.

The Woosung Railway.

Synopsis.

The Consul at Tientsin reports that the viceroys at Tientsin and Nanking propose to buy the line. The viceroy at Nanking, who is more especially in charge of the business, intends to discontinue the line, if he succeeds in gaining possession.

possession. Mr. Seward has used his best endeavors to secure an adjustment of the difficulty, but matters do not proceed well.

No. 138. One Enclosure.

United States Legation.

Peking, October 14th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:—

Referring to my despatch, number 131., I have now the honor to hand to you a copy 1/138 of a letter which I have received from the Vice Consul at Tientsin.

You will see that Mr. Pethick believes that the " purpose of the Viceroy at " hanking is to secure " possession of the Shoosung Railway. In another way, I learn that he intends,

thereafter

thereafter, to discontinue it.

I have consulted very freely with Sir Thomas Wade in regard to this business, in the hope that I might be able to suggest something which would preserve the road, while recognizing Chinese rights. I shall continue to do this, but as matters now stand, I am not hopeful as to the result.

I have the honor to be,

Sir,

Your obedient servant.

Geo. F. Seward

Enclosure.

Mr. Vice Consul Pethick to Mr. Seward.

Despatch No. 138.
Inclosure.

Copy.
No 2.

United States Consulate
Tientsin. Oct. 5th 1876.

Honorable. George F. Seward
United States Minister
Peking

Sir:-

With regard to the Woosung railway, which forms the subject of your despatch to me dated Sept. 27th 1876. I beg to state that I have had a conversation with H. E. the Viceroy and have likewise discussed the subject with one of the Deputies. Mr Chu Chin. chao, who was appointed together with a Mr Shêng. to go to Shanghai and assist in the adjustment of the difficulty.

The viceroy declares that he would have no objection to the railway if the people living in its vicinity were not inconvenienced thereby, and he believes that this

railway

railway can be worked with benefit to the people or at least without harm to them: hence he would not like to see the enterprise abandoned. He desires that his Government may obtain Control of it, if necessary by purchase, thus maintaining its Sovereignty over its own territory and the system of Communications throughout that territory. He alluded to the measures being taken by the German Government to assume Control over railways in that Empire. and insisted that such Government Control was even more necessary in China.

However, he stated that, while he was friendly to the enterprise, and hoped to see it continue, yet he had no special powers to deal with the question, and could not venture to decide in what pertained to any other jurisdiction than his own

own; that the viceroy at Nanking would consider and decide upon what could be done, and that the deputies sent from here would have to act with deference to his wishes and merely went to assist in making a satisfactory arrangement.

The Viceroy here so well understands and so fully admits the utility of railways, as to preclude the necessity for adducing the usual arguments in their favor when discussing the general subject: and as to the particular question now to be adjusted. I am convinced that he is actuated by the best feelings and would decide promptly, and fairly had he the jurisdiction, or the necessary special powers.

Such being the views and the attitude of H. E. the Viceroy it will be unnecessary to repeat the ideas of his deputy as expressed to me by the latter;

Sufficient

Sufficient to say that his only object is to carry out his instructions which ~~were~~ are to assist as best he can, by investigating and consulting, to effect an early settlement in accordance with the purpose of H. E. Shen Pao Chen. Viceroy at Nanking. that purpose is understood to be directed to the acquisition of the railway by the Chinese Government but his intention as to ulterior proceedings is either not yet formed or has not yet transpired here.

The deputies Mr Chu and Mr Sheng both of whom are connected in an official capacity with the Chinese Str Company. the latter having been a Secretary to H. E. the Viceroy here, have gone to Shanghai, likewise Mr Mayers. Chinese Secretary of the British Legation, who goes, presumably, on the same errant in the interests of this Government.

I am, Sir. Your obedient Servant.

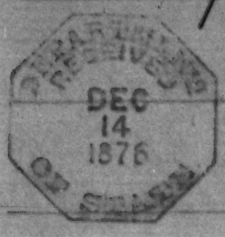
Wm N. Pethick
Vice Consul

Mr Payson
ack 10C
20 dec

Ack Dec 14

Mr Payson

No. 139.



United States Legation
Peking, October 14th, 1876.

George F. Seward to
the Secretary of State

Subject.

The Yen Ping case.

Synopsis.

This case has not yet been settled. Mr. Seward has brought it again to the notice of the Foreign Office, stating that according to Prince Kungs statement of the matter the mob had no provocation, and asking for

renewed

renewed instruction to the "
Governor of Fuhkien. The "
members present expressed "
willingness to comply with this
request.

No. 139.

United States Legation.
Peking, October 14th 1876.

Honorable Hamilton Fish.
Secretary of State.

Sir:—

Referring to my despatches, numbered 26 and 69. in regard to the Gen Ping Missionary case, I have the honor to state that no settlement — has yet been reached. Having waited patiently in the matter for so long a time, and having received Your despatch, number 56., approving the action heretofore taken by me, I, to day, called at the Foreign Office and spoke about

about it, saying generally that the Prince's letter of March 27th, in reply to mine of March 23rd, shows that the mob made their attack upon the bookstore, because they heard that a chapel was to be built, that no provocation of a substantial sort, had been shown, and that, therefore, it is a case coming within the provisions of Article XXIX. of our Treaty.

I then added that I had learned from our Consul at Foochow, that the Governor of the province had the matter in hand, but that there can hardly be good reason for the long delay which has occurred, and

and asked that an
instruction be sent to him
to deal more seriously with the
business. They expressed their
willingness to give this
instruction.

From what I can learn,
I judge that the population of
Gen Ping and the neighboring
town of Kien ling, where troubles
are also reported, are very
unwilling to admit missionaries
within their limits, and that
it will require an effort on
the part of the provincial
authorities to overcome their
opposition. The given case had
its origin, no doubt, in this
sentiment.

I

I propose to keep the business before the Government, adopting a more urgent tone as time passes, and this will be my course, unless the matter shall seem to you not worthy to be pursued.

I could wish that our missionaries would take the advice which I tendered in my circular letter of March 5th ult, last, and avoid all places where troubles are likely to occur.

I have the honor to be,

Sir,

Your obedient servant.

Geo. F. Train

Mr Payson
ack 8 DC 20 Dec

Ack'd Dec. 19.

Mr Payson

No. 140.

United States Legation
Peking October 14th 1876.

George F. Seward to
the Secretary of State.

Subject.

Bond of Vice Consul at Hankow.

Synopsis.

The bond has been approved by the Consul General, and the Br. Min's recognition by the Imperial Government procured.

No. 140.

United States Legation.

Peking, October 14th, 1876

Honorable Hamilton Fish.

Secretary of State.

Sir:—

Referring to my despatch, number 117., informing you that Mr. F. H. Bush's commission as vice Consul at Hankow had not come to hand before Mr. Consul Johnson's departure, and that I had not been informed whether the required bond had been prepared, I have now to state, that I am advised by the Consul General that he has

has approved a bond which had been sent to him by Mr. Bush, and forwarded it to the Department.

I have, accordingly, informed the Foreign Office that Mr. Bush is qualified to act as Vice Consul at Hankow.

I have the honor to be,
Sir,
Your obedient servant.
Geo F. Seward

Mr Payson
ack. Dec 16
14 Dec
Cert. sent
to Mr. Bartle

Ack. Dec 20
Mr Payson

Peking, October 14th, 1876.

Honorable Hamilton Fish,
Secretary of State.

Sir:— I have had the honor to
ceive your letter of August 21st,
nforming me of my appointment
s Secretary and Interpreter of
e United States Legation in China,
nd covering a Commission, Letters
l Credit, a special Passport, and
blank form of oath.

In obedience to your
nstruction, I have attached my
ignature to both the original and
uplicate Letters of Credit, and
have mailed the former to the
Government bankers in London.
The oath has also been filled out
and executed, and I beg leave to
nclose it herewith.

Permit

Permit me to express to the President and Yourself, my profound gratitude for this mark of your confidence in conferring so important trusts upon me, and to assure you that it shall be my constant endeavor to perform, with zeal, fidelity, and discretion, the duties of my office.

I have the honor to be,

Sir,

Your grateful and obedient servant

Chester Holcombe

Enclosure.

Oath of office.

Ans Dec 18

Ans'd Dec 19.

Thos Bayard

No. 141.

United States Legation
Peking, October 16th, 1876.

George F Seward to
the Secretary of State

Subject.

Appropriations for the Legation.

Synopsis.

Have received information of allowances for current year. Thanks the Secretary for efforts to sustain the position of the establishment. Expresses a hope that the Consular service has not been reduced, excepting

in the case of Swatow.

No. 141.

United States Legation
Peking, October 16th, 1876.

Honorable Hamilton Fish.
Secretary of State.

Sir:—

I have the honor to recur to your instruction, numbered 69., informing me of the appropriations which Congress has made for this Legation for the current year, and, if this may be allowed, to thank you for the effort which you must have made to prevent a reduction from the standard of previous years. Our establishment here is very small

small when compared with those of other Governments, and it would have been unfortunate to place it at a still greater disadvantage.

I shall look with much interest for information of the appropriations made to the Consulates. If no change has been made, excepting at Swatow, our service will be left in much better condition than I expected.

I have the honor to be,

Sir,

Your obedient servant.

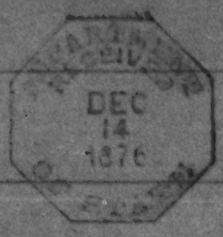
Geo F. Seward

Answd Dec 5. 76.

K

Mr Payson

No. 142.



United States Legation.
Peking, October 16th, 1876.

George F. Seward to
the Secretary of State.

Subject.

The Keorjeor / Hill vs. Lake case,
and the Ward claims.

Synopsis.

Mr. Seward has had a further
interview with the Foreign Office.
No advance made. He will await
instructions in regard to the Keorjeor
case, and then bring the matter before
the Foreign Office in a more forcible
way

way. States the difficulties attending the prosecution of claims in China.

No. 142.

United States Legation
Peking, October 16th. 1876.

Honorable Hamilton Fish.
Secretary of State.

Sir:-

Two days since I called at the Foreign Office to bring up various matters, and among others spoke of the Kerjeon case (Hill vs Lake) of which I have written in my despatches, numbers 108. and 119. asking whether the report of the Viceroy at Nanking had been received. The members present responded affirmatively. I asked whether it was favorable, and they responded that

that he had reported that "there
"are no proofs."

Presuming from the nature
of the response and the tone of
the Ministers that they were
indisposed to approach the
business, I pointed out briefly
that the discussion with them
of the Keojeon case, and the
ward claims is exceedingly
irksome to me, there are other
matters than claims to take up
our attention, — that, from
my long and intimate knowledge
of these matters, I must feel the
more sensitive as to their manner
and ended by suggesting an arbitration
of dealing with them. They
responded that the relations of
China and the United States
are

are peculiar, that there has never been anything unpleasant in our intercourse, and that they are naturally anxious to meet our views, but that they cannot see a way in this instance. I answered that the ward claims were pressed upon them by your instructions, and that your views in regard to the Keorpeor claim would soon be known, that I assumed a certain responsibility in saying that I would be prepared to assent to an arbitration at all, and that I felt sure there would be difficulty in understanding a refusal of this. Without responding

responding directly they remarked that they have not the power to act contrary to the views of their provincial authorities. To this I said that my Government would feel some surprise that the central authorities of the Empire are unable to deal with cases so simple and unimportant as these. The response to this indicated that they would not like to have one make such a report, but I declared in turn, that I am required to report all my official acts and interviews. One of the members then asked why I had not arranged the business at Shanghai. I responded that the

the failure had not been mine;
that in the case of the Ward
claims in particular the
money had been sought from
a person of official rank that
there was no Court at Shanghai
into which the claimants "
could pursue him, that the
business thus came to be one
of political representation,
and that having failed to
secure a settlement after
years of effort at Shanghai,
it was brought here as a "
matter of necessity. I then
again appealed to them to
relieve me of an irksome
duty by accepting my "
intimation, and referring

the

the cases to arbitration. In "
answer to this, they again "
declared that it is difficult
for them to deal with matters
which have originated at a
distant locality.

The whole conversation
was of an extremely "
unsatisfactory tenor, and
left me much disposed to
repeat to you a statement which
I have already made in
connection with these matters,
that I can see no disposition
on the part of the Foreign Office
to take them up in such
manner as to arrive at a
just decision.

I am greatly hampered
in

in placing these matters before the Government by the fact that important documents are missing. I refer to the Chinese signed copy of the submission to arbitration in the case of the Ward claims and the charter party in the Keorpeor case. Under these circumstances, I see no hope of success unless I can bring the Government to consent to an arbitration and I do not like to urge this proposal until I have your views in response to the despatches written prior to my departure for Chefoo at the end of July. I am authorized by you to express strongly Your

sense

sense of the justice of the claims, I can perhaps, through an arbitration, effect a satisfactory settlement, but not otherwise.

I must point out to you that the difficulties which I am meeting are radical, and are not exceptional, or growing out of the peculiarities of the cases. I stated to you in my Trade Report for last year, in my despatch, number 48. in response to your circular letter asking information regarding the prosecution of claims, and in my despatch, number 96., in regard to the

the German treaty scheme, how utterly unsatisfactory is the situation in this respect.

But I doubt whether it will be quite possible for you to understand the entire hopelessness of the situation. It is difficult to get cases before the so called Courts at the ports. It is more difficult to procure intelligent and righteous judgments. It is still more difficult to secure the enforcement of judgments. In case of failure in any one of these directions, there is no provision for appeals, saving, perhaps,

to the provincial Courts, after the native fashion, and these are practically inaccessible to the foreign suitors. If, passing these, one comes to the Government, he is told that it is difficult to deal here with matters which have arisen in the provinces, and if pressed to their responsibility, and the merits of the matter are to be entered upon, one finds that only trivial points are sought out, and these reiterated over and over, regardless of all substantial facts and considerations.

In the two cases in hand, the Foreign Office knowing that

that the submission to arbitration in the one instance, and the charter party in the other, have been lost, or, as is probably the case, stolen, say "there are no proofs". And they repeat this statement in face of my declaration that I myself drew the submission to arbitration, and executed it on the one side, that the report of the arbitrators is in my hands, and that I am able to show them a letter from the person claimed against, who quotes the award at length, and in face of conclusive evidence that there was a charter party, and that

the

the chartered ships was used under it, and supporting evidence in each case of the most conclusive sort.

It is now my intention to avoid approaching the Yamen on this question, until I receive your instructions in the Keorjeor case. If you instruct me to proceed, I shall ask for a full meeting of the Yamen, including the Prince, and then again urge that they shall either enter upon the consideration of the cases in a serious way or refer them to arbitration.

I have the honor to be,
Sir,
Your obedient servant.
George F. Seward

Mr Rayson
Acknd Dec 14.

Mr Rayson

No. 143.

United States Legation.
Peking, October 20th, 1876.

George F. Seward to the Secretary of State.

Subject.

Mr. Williams resignation.

Synopsis.

Mr. Holcombe's Commission having arrived, he entered upon the discharge of his duties upon the 14th October.

No. 143.

United States Legation.
Peking October 20th, 1876

Honorable Hamilton Fish.
Secretary of State.

Sir:—

I have the honor to inform you that Mr. Holcombe has received his Commission and instructions as Secretary of Legation and Interpreter, and that he entered upon his duties on the 14th instant.

Mr. Williams will leave here on the 24th instant.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward

Mr O'Connor for examination Answered Dec 21.
JAC 15 Dec

Mr O'Connor

No. 1414. One Enclosure.

United States Legation.
Peking, October 20th, 1876.

George F. Seward to
the Secretary of State.

Subject.
Lease of Legation at Peking.

Synopsis.
The lease heretofore executed has been redrafted in accordance with instruction, No. 67, and three copies of the new draft, duly signed, is forwarded with this despatch. A clause binding the lessor to make current repairs has been added.

No. 144. One Enclosure.

United States Legation.

Peking, October 20th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:-

Recurring to your despatch, number 67, in which I am instructed that the lease for the Legation premises, executed between Mr. Williams and me, under instructions given to my predecessor, the late Mr. Avery, has been approved, but directing me to correct it "in accordance "with the facts, making the "United States by Hamilton "Fish, Secretary of State, the

Party

"party of the second part," I have now the honor to transmit to you herewith a redraft of the lease, in triplicate. The several parts have been signed by Mr. Williams.

Referring to the remark that the amount of the rental is greater than Mr. Avery's estimate, I ought to point out that Mr. Avery expected that all repairs would be made by the Government, while, under the arrangement which I concluded the lessor bears these expenses. In order that there may be no doubt upon this point, I have inserted

a

a clause in the new lease which expresses the agreement arrived at in regard to repairs.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward.

Enclosure.
Three copies of the lease for the Legation premises.

Recd. Telewith
Bis, no 142 Phila. Oct. 23d 1876.

My dear Sir.

We have corrected the leaves of the Legalem pamphlets in accordance with your instructions and the two leaves in duplicate your forwarded of this date. I hope that it will prove to be in order, and satisfactory.

Dr. Williams wrote to have two copies sent to Rev. R. Hopper D.D. Utica. It might be well to have the letter registered.

Recd. File with
Dis. No 144 Chicago. Oct. 23rd 1876.

My dear Sir.

We have corrected the leaves of the Legation Journals in accordance with your instructions and the two leaves in duplicate for forward of this mail. I hope that it will prove to be in order, and satisfactory.

Dr. Williams would like to have his copy sent to No. 10. Hopper St. Yokohama. It might be well to have the letter registered.

Before you receive
Jon will doubtless have
appropriate reporting over
theleon of Gov. Hagen to
Brendueq. We have not
yet heard of the result
in Richland County.

Yours truly
Geo. F. Hoar

Hon. John A Campbell.
Washington D.C.

Whereas, the Government of the United States, by an Act of Congress, approved March 3d 1875 (Chapters 130 and 131, U. S. Statutes at Large, 1874-75), authorized the Secretary of State to rent, keep, and furnish suitable buildings with grounds appurtenant, at Peking, for the use of the Legation in China;

Now therefore, this Instrument, made and executed by and between S. Wells Williams Esqr LL.D., party of the first part; and the United States, by the Honorable Hamilton Fish, Secretary of State of the United States, party of the second part,

Witnesseth, That the said S. Wells Williams, party of the first part, has hereby let and rented to the party of the second part, for the use of the Legation of the United States at Peking, the grounds and buildings now occupied by the said Legation, and more particularly

particularly described and delineated in a dispatch addressed by the late Benjamin P. Avery Esq^r then Minister of the United States at Peking, to the Secretary of State, dated at Peking, August 10^th 1875, and numbered 86; and the party of the second part has hereby leased and taken from the party of the first part, the said grounds and buildings, upon terms and conditions hereinafter named, as follows:-

1^st That the said parties of the first and second parts have agreed that the occupation of the building known as the Minister's House, and the outhouses and grounds appurtenant to the same, began on the first day of July, 1875; and that the occupation of the building known as the Secretary's House, and the outhouses and grounds belonging to the same, began on the first day of March, 1876.

2^d That the said parties have further agreed,

agreed that the Lease of the premises ~
began on the dates mentioned in the
last paragraph, and shall continue until
the expiration of four years from the date
first mentioned therein, that is to say, until
the 30th day of June, AD 1879.

3d That the said parties have
further agreed that the ~~~~ rental, ~ ✓
reserved and to be paid to the party of the
first part by the party of the second part,
for the Minister's House, and the grounds
and buildings thereto appurtenant is, and
shall be for the term mentioned in the last
paragraph, Fifteen Hundred Mexican
Dollars for each and every year thereof;
and for the Secretary's House, and the
buildings and grounds thereto apparte-
nant, is and shall be at the rate of Fifteen
Hundred Mexican Dollars for each and
every year and part of a year thereof.

4th That ~~ the said parties have
further agreed that the stipulated rental
of the whole property, say Three Thousand
Mexican

Mexican Dollars per annum, shall be ~ payable at Peking quarterly at the end of each and every quarter, ~ that is to say, on the 31st of March, the 30th of June, the 30th of September, and the 31st of December, of each and every year during the period of this lease; and that any loss or gain by exchange shall be made a matter of account, and settled in such manner as the party of the second part shall direct.

5th That the said parties have further agreed that the party of the second part may make at his own expense any and all such repairs and alterations in and about the said buildings and grounds, and may ~ erect such new buildings as in the judgment of the party of the second part may appear desirable, provided that the value of the premises shall not be unfavorably affected thereby

6th That the said parties have further agreed, that the party of the second ~ part shall have the option and privilege

of

of renewing this lease upon the terms and conditions herein expressed, for two successive terms of four years each.

7th That the said parties have further agreed that in case the buildings hereinbefore referred to and described, or any of them, shall become untenantable, or unfit for the purposes for which they are rented, by reason of fire or any other cause than natural decay, the rent thereof or a proportionate part as may be just, shall cease until such building or buildings shall have been reconstructed or repaired by the party of the first part to the satisfaction of the party of the second part, acting through its Representative at Peking.

8th It is further agreed by the party of the first part that he will make such current repairs and renovations to the buildings, walls, walks, and drains, as may be required by the party of the second part, acting through its Repre-

sentative

sentative in Peking, to the extent of Six Hundred Dollars in any one year, during the period of this Lease.

9th It is further agreed that when the party of the first part is referred to in this Instrument, it shall always be understood and held to mean, include, and bind the said party as hereinbefore named, his executors, administrators, and assigns.

Done and executed in triplicate, one copy being held by the party of the first part, one by the Secretary of State of the United States, and one deposited in the archives of the United States Legation at Peking.

In Witness Whereof, the parties hereunto set their hands and seals; to wit: the party of the first part at Peking, and the party of the second part at this Twenty-first day of October, AD 1876 in the presence of

Georg F. Seward. S. Wells Williams

Chester Holcombe

Hamilton Fish
Secretary of State

Note. The Secretary of State signing this lease officially, affixes no seal.

Mr Payson
ack Dec 17.
ack DEC 18 dic

Mr Payson

No. 145. One Enclosure.

United States Legation.
Peking, October 20th, 1876.

George F. Seward to
the Secretary of State.

Subject.
The Swatow Office.

Synopsis.
Mr. Seward has advised the Consul General that, if the appropriations for Swatow have been withdrawn, that port may be made an Agency of the Canton Consulate. Gives reasons why it should be subordinated

to

to Canton, rather than to Amoy, to which it is, (")
geographically, nearer.

No. 145. One Enclosure.

United States Legation.

Peking, October 20th, 1876

Honorable Hamilton Fish.

Secretary of State.

Sir:

From unofficial information which I have received, I judge that the office at Swatow has been discontinued as an independent Consulate. I have therefore addressed to 1/145. the Consul General at Shanghai a letter requesting him, in case my information proves correct to inform the Consul at Canton that Swatow will fall within his jurisdiction,

and

and that he is at liberty to nominate an Agent for the port.

A question may be raised whether Swatow should not be subordinated to Amoy, to which it is much nearer than to Canton. It happens, however, that Canton is the capital city of the province within which Swatow is situated, and as the government of each province in China is administered independently of that of any other province, and with a degree of " independence from the " Central Government, it seems desirable to make, and, as far as

as possible to observe the rule, that Consular Agencies shall be subordinated to the Consulates which can most readily deal with the provincial authorities concerned. It is, moreover, true that the office at Amoy has already a large district under his view. Formosa ought, logically, to be subordinated to the Foochow Consulate, but it was taken possession of by General Legendre and remains a part of the Amoy district. The officer at that port has, therefore, as much to do as should be expected of him.

I have the honor to be,

Sir,

Your

Your obedient servant.

Wm. H. Seward

Enclosure.

Mr. Seward to the Consul General.

Despatch No. 145.
Enclosure.

Copy.
No. 31

United States Legation.
Peking, October 20th 1876.

John C. Myers, Esqre.
U. S. Consul General.
Shanghai.

Sir:-

I judge from what I have been able to glean from the newspapers that Congress has failed to make the usual appropriations for the Consulate at Swatow, and that the office will be discontinued. It will be desirable, however, to have a representative at that port, and I shall write in this sense to the Department by an early opportunity. Geographically, Swatow is nearer to Amoy than to any other port, but as it is situated in the province of Kwangtung

of

of which Canton is the capital city, it will be more convenient it the Agency at Swatow is subordinated to the Canton Consulate, If you have information of a positive character that no appropriations have been made for Swatow, I shall ful obliged if you will send a copy of this note to the Consul at Canton in order to notify him that Swatow, until otherwise ordered will be considered within his jurisdication, and that he is at liberty to nominate an Agent to reside there as provided in paragraph 19. of the Consular Regulations.

Please report to me the action which may be taken in views of this letter.

I am, Sir

Your obedient Servant.

(Signed) George F. Seward

Mr Payson

to Seward No. 146 Dated 23 Oct 87

Subject

Consular Agencies at the ports to be opened under the Chefoo agreement.

After an examination it appears to me that this should simply be acknowledged The advisability of appointing the Agents can be considered when the nominations are received

J A Campbell

16 Dec

Ans'd Dec 7/76.

No. 146. One Enclosure.

United States Legation.

Peking, October 23rd, 1876.

George F. Seward to the Secretary of State

Ans'd Dec 18

Subject.

Consular Agencies at the ports to be opened under the Chefoo agreement.

Synopsis.

The writer has addressed a letter to the Consul General stating the Consulates to which the new ports will be subordinated, and asking him to inform the respective officers

officers of this, and that they will be at liberty to nominate Consular Agents. As this action is important, the writer has asked the Consul General to act carefully.

No. 146. One Enclosure.

United States Legation.

Peking, October 23rd 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:-

As it appears likely that the ports named in Sir Thomas Wade's agreement with this Government will be opened in March next, I have addressed a letter to the Consul General, stating the consular districts within which these ports fall, and asking him to inform the respective officers that they are at liberty to nominate Consular Agents for the new ports. I

1/146.

I have accompanied this instruction with a few words of caution to the Consul General which are required by the importance of the action to be taken.

The Port of Ichang is destined to be a very important one, and it is a great pity that we cannot at once send a full Consul there with an Interpreter, and the means to establish a suitable Consulate.

Kewchow is nearer to Foochow than to Kiungchow, but the former Port is in another province. I have pointed out in my despatch number 145 that

that Consular Agencies should be subordinated respectively to the Consulates having relations with the higher officials of the Province within which the Agencies are situated.

I have the honor to be,

Sir,

Your obedient servant.

Wm. H. Seward.

Enclosure.

Mr. Seward to the Consul-General, No. 30. October 19th.

Despatch No. 146.
Enclosure.

Copy
No. 30.

United States Legation
Peking October 19th 1876.

John C. Myers Esqre
U. S. Consul General
Shanghai.

Sir:—

As it is probable that the ports of I chang, Wuhu, Wenchow, and Pakhoi will be opened to foreign trade in March next, under the agreement made between the English and Chinese Plenipotentiaries at Chefoo on the 13th of last month, it is desirable that you shall take notice that I chang will fall within the district of the Hankow consulate, Wuhu within the district of Chinkiang, Wenchow within the district of Ningpo, and Pakhoi within the district of Canton, and so inform the respective Consuls concerned. It will be very desirable to have

a

a Consular Agent at Ichang. He should be nominated at once so as to be ready to take office when the port is opened. Agents at the other ports named will not be so much needed, but may be nominated in case suitable persons can be found for the places.

It is extremely desirable that these Agencies shall be filled, if at all, by competent and upright men. It is desirable moreover, that the persons appointed, shall be able to establish and maintain their offices with a due regard to the fact that the dignity of our Government is involved In this view it will be better if the Agents are men of such individual standing, or attached to such mercantile houses as to secure the desired result.

If owing to the fact that you

you have been in China for a short time only, my judgment upon the nominations made will be of value to you, you are at liberty to appeal to me.

You will please transmit to me copies of the letters which you address to the Consuls concerned, under this instruction.

I am Sir,

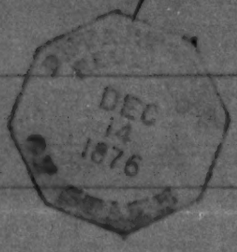
Your Obedient Servant

(Signed) George F. Seward

Mr Rayson
Ask opns to Auditor — Did do orc. 18. 1876
DUC
15 Dec

Mr Rayson

No. 147.



United States Legation
Peking, October 25th, 1876

George F. Seward to
the Secretary of State.

Subject.

Salary account.

Synopsis.

Forwards account of salary for first quarter in the current fiscal year. When the Treasury statement of the Mint value of the Mexican dollar is received a certificate of loss by exchange will be sent.

No. 147.

United States Legation.

Peking, October 23rd, 1876

Honorable Hamilton Fish.

Secretary of State.

Sir:-

I have the honor to transmit to you herewith my account for salary for the quarter ended on the 30th ultimo. I transmit also a duplicate account for the Fifth Auditor and covering letter.

I shall draw upon Messrs. Morton, Rose & Co. of London for the amount shown to be due to me, but I shall not be able to transmit a certificate of

of the loss by exchange until I receive from the Treasury Department a statement of the mint value of the Mexican dollar on the 1st of January last, as required by law.

I have refrained from drawing my salary for the fourth quarter of the last fiscal year, while awaiting a report of the adjustment of the account sent to you for the third quarter. Having received a statement of the basis upon which that account should have been prepared, I shall be able to revise it, and to forward the new account, with the one

for

for the fourth quarter at an early day.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward.

Enclosure.

Statement of salary account for the first quarter of the current fiscal year.

for

Mr Bayson

Legation of the United States,
Peking. October 24. 1876

Hon. Hamilton Fish

&c &c

Dear Sir,

I have the honor to acknowledge the receipt of your two letters of the 7th and 10th of August, — the latter of them accepting my resignation of the office of Secretary and Chinese Interpreter to this Legation; and the former assuring me of your regret that the official relation which has so long existed between me and the Government (longer, I think, than any person now in the diplomatic service abroad) has been brought to a close.

The terms of both these letters are such that I cannot refrain from returning you my hearty thanks for their expressions of approbation at my conduct during the many years I have held the post. It was not many often that my official action received the special approval of the Department; and these

letters

letters are therefore more gratifying as expressing the opinion of one, who during nearly eight years past has known and noted all that has transpired in the Legation to China.

I may be permitted to allude to what you say in reference to my Syllabic Dictionary, and to the article in our treaty on the toleration of Christianity, for I look upon both these as among the acts of my life in China which may have permanent results for good. The latter especially gives assurance to native converts that their Christian profession is not without the sanction of their rulers; and I know several cases in which its terms have proved to be a reason for letting them alone, or an argument for allowing their worship.

In looking back over the period of forty-three years which I have passed in China, I can see so much real progress among its rulers and people, that it furnishes a promise of greater and better advances in years to come, if they are left to work out

their

their adoption of Western arts, science, and truths in their own way. In aiding to promote this work, the American official and people in the Empire now occupy a good vantage ground.

I have transferred to my successor everything that relates to the office; and hope that Mr Holcombe will reflect credit on his country in fulfilling all its important duties.

Thanking you again for your complimentary letter, I beg to assure you of the high regard with which I am,

Dear Sir,

Your Obedient Servant,

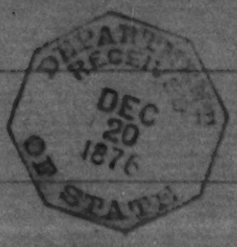
S. Wells Williams

Mr Payson
Rec'd Dec 21 am

Rec'd Dec 22.

Mr Payson

No. 148. Two Enclosures.



United States Legation
Peking, October 25th, 1876

George F. Seward to
the Secretary of State.

Subject.

Recognition of Mr. Holcombe.

Synopsis.

Transmits copy of the note sent to the Foreign Office, and of the reply.

No. 148. Two Enclosures.

United States Legation.

Peking, Oct. 25th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:-

I have the honor to hand to you herewith, a copy of my note to the Foreign Office, announcing Mr. Williams' resignation of the post of Secretary of Legation and Interpreter, and the appointment of Mr. Holcombe; and a copy of the translation of the response made by the Foreign Office. 1/148 2/148

I have the honor to be,

Sir,

Your

Your obedient servant.
Geo. F. Seward

Enclosures.

1. Mr. Seward to Prince Kung.
October 14th, 1876.
2. Prince Kung to Mr. Seward.
October 22nd, 1876.

Despatch No. 148.
Enclosure 1.

Copy.

Mr. Seward to the Foreign Office.

No. 11. Peking, Oct. 14th, 1876.

I have the honor to inform Y. I. H. and Y. Es that Mr. S. Wells Williams, Secretary and Interpreter to this Legation has been relieved at his own request, and that Mr. Chester Holcombe takes up the office by appointment of the President and Senate, from this date.

It is right that I should inform you that the Secretary of State, in granting to Mr. Williams permission to retire from office, has expressed a high appreciation of the services which he has rendered, and of his high character and great attainments.

I have &c.

(Signed) George F. Seward.

Despatch No. 148.
Enclosure 2.

Prince Kung, Chief Secretary of State for Foreign Affairs, herewith makes a communication in reply.

Upon the 14th instant I had the honor to receive Y. E's despatch informing me that Mr. Williams had been relieved, and that Mr. Holcombe had been appointed to succeed him as Secretary and Interpreter, and had upon the 14th instant entered upon the discharge of his duties, etc. etc.

I beg leave to observe that Mr. Holcombe has been a resident of China some years, and that his management of all public business has been satisfactory in the extreme. Having now been permanently appointed to this Office, he will doubtless be able to render Y.E. valuable assistance in the successful management of affairs, To the

end

and that in the future our
public relations may be even
more friendly than in the past.

I have &c.

George F. Seward,

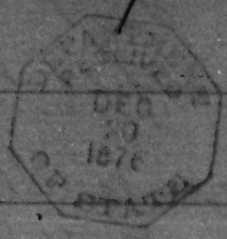
&c. &c. &c

Peking, October 22nd, 1876.

Mr O'Connor for his information
DAC 2/10/26

Mr O'Connor

No. 149. Two Enclosures.



United States Legation.
Peking, October 27th, 1876.

George F. Seward to
the Secretary of State.

Subject.

The Mill-Lake case.

Synopsis.

Transmits a letter received from the Foreign Office, and the response made. Mr. Seward will wait instructions before urging the matter. He, however, asks the Foreign Office to request certain information from the

Hill-Lake claim, and the Ward claims upon them until I receive instructions from you. I have however asked the Foreign Office to call for certain papers referred to in the report of the Taotai at Shanghai, which is embodied in the answer they have made to me, and to ask the Viceroys at Nankring and Tientsin for information which I have stated.

I have much hope that, among the papers called for, will be found the document, or a copy of it, by which the Ward Claims were submitted to arbitration. It is this document,

the

the Consulate copy of which I have before referred to as having been lost or stolen, and in consequence of the absence of which the Foreign Office have declared that there is no proof that the claims were ever submitted to arbitration.

If this be found, it will be much easier to deal with the Ward claims, and, if the Viceroys respond as they should, to the application which I have asked the Foreign Office to make to them, the settlement of the Hill-Tatem case will be promoted.

I have the honor to be,

Sir,

Your

Your obedient servant.
Geo. F. Seward

Enclosures.

1. Prince King to Mr. Seward,
October 23rd, 1876.
2. Mr. Seward in reply.
October 26th, 1876.

Despatch No. 149
Enclosure 1.

Prince Kung, Chief Secretary of State for Foreign Affairs herewith makes a communication.

Because of a dispatch received from Y.C. in the case of Hill vs Yakee, requesting that orders be issued enforcing the immediate payment of the claim, this office instructed the Southern Superintendent of Trade to make a searching investigation, and so informed Y.C. in reply.

This office is now in receipt of the report of the Southern Supt. of Trade, covering a statement of the Shanghai Intendant, that he had received, through the Supt of Trade, the despatch of the Foreign Office with the request of Y.C. that in the case of Hill vs Yakee, Yang Yakee be required to make immediate payment of whatever sum is shown to be due, with a suitable interest, and ordering that

that a suitable adjustment be made in accordance with the facts of the case presented by Mr. Seward, etc.

In the case of the steamer Keojeor, there is not the least evidence to show whether Yang Takee chartered, or did not charter her. And now that the matter has been allowed to rest for many years, and Yang himself has been dead for a long time, there is still less basis on which to rest an investigation. During Mr. Sewards term as Consul General at Shanghai. Hill claimed the charter money for the steamer Keojeor, and at that time, Shên, then Intendant of Circuit, summoned Su I cho, and others and examined them, but as there was no written evidence of the debt, could not enforce

payment

payment. After the taking of his office by the present Intendant he carefully examined the printed evidence as presented, but found no certain evidence in support of the claim.

Because of the great lapse of time any recovery of the claim is exceedingly difficult, and although the entire case has been repeatedly and exhaustively discussed it still remains unsettled. From an investigation of the printed volume of evidence it appears that the claim is for Taels 12000. In the time of Intendant Ying, he made certain inquiries of the ex Intendant Lou, and received in response a full statement, which is still accessible. The present Intendant has also examined carefully the award of Messrs.

Cunningham

cunningham & Hanbury in the
arbitration of the accounts
of the "Ward force". Inasmuch
as no evidence appeared that
the "Ward Corps" had used
this vessel the beforementioned
arbitrators threw out this claim
of Taels 12000, for four months
charter, and other claims for
repaires, etc. Insomuch as the
claim of four months charter
money was rejected, still
less can any justice be shown
in the claim for fourteen
months service. Further, if the
steamer was actually in use
for 14 months, why did Hill,
at that time, present a
demand for only four months
charter. The unsoundness
of the entire claim may be
seen from this. The present
Intendant accordingly decided
against the claim and so
informed the Consul General.

The

The entire evidence in the case as printed in both English and Chinese, the decision of the Intendent, the entire accounts of the Intendent with the Ward Corps," the original claim of Hill against Takee, all these documents are sent as evidence, and their examination is requested. Thus the intendent reports to the Southern Superintendent of Trade.

It appears in the case of the claim for charter money of this steamer that Yang Takee having been long time dead, Mr. Hill renews his claim. Then the former Intendant replied that in the absence of any evidence of the claim it could not be recovered. After the Intendant, Feng, had entered upon the duties of his office, he also examined the claim, decided

decided that there was no evidence in its favor, and so rejected it. His Ex. Mr. Seward now addresses the Foreign Office with the request that the claim be ordered to be paid, and remarks that the charter party has been lost. In a claim for money, how can the single assertion that the documentary evidence has been lost be accepted in lieu of evidence. Since in the cases where the proof is actually lost no suit can be prosecuted, how much less in a case where no proof ever existed. Since Hill can produce no evidence it becomes more credible that Yang Take never used his Steamer. Full copies of the papers submitted by the Intendant are sent up for examination.

The Foreign Office begs leave to remark that in the

prosecution

prosecution of money claims, the question whether evidence (written) exists of the obligation, should be allowed to decide the claim. If, in the absence of other evidence, the mere word of witnesses be accepted, they will be produced in favor of both plaintiff and defendant. In the present case, by illustration, foreign witnesses declared that the steamer was employed, while native witnesses asserted that she was not. The Counsel for the plaintiff said the claim ought to be paid, while those for the defendant said it ought not. Thus each party had its own voice. Since the claimant brings no proof of the debt, the respondent of course asserts that no proof is brought because no debt ever existed.

This

This claim has existed for more than ten Years. the party is dead and the vessel destroyed. The charter party & bill of account are not discoverable. If it is insisted that without these the claim shall be enforced, it will be difficult to explain to the defendant the justice of such a course. H. E. is requested to give the matter careful consideration.

To H. E.

George F. Seward.

de de. de.

Peking October 23rd 1876.

Despatch No. 149
Enclosure 2.

Mr. Seward to H. I. H. Prince Kung.
Peking October 26th 1876.

I have the honor to receive the letter which H. I. H. has addressed to me under date of the 23rd instant in regard to the case of Hill vs Jaku.

As it is manifest that H. I. H. and their Excellencies the associated Ministers of the Foreign Office do not regard the claim of my countryman with favor, I shall refrain from asking you to discuss it with me until I have received the instructions of my Government.

In order however that no time may be lost when the moment for the discussion shall come I beg leave to ask H. I. H. to read the enclosed memorandum of conversations which I held with the Taotai, Feng, at Shanghai when I was urging the case upon his

his attention there. You will find in this memorandum my answer to the points made by him as stated in the report made by head to the Southern Superintendant of Trade.

It seems desirable to ask H.E. the Southern Superintendant to call upon the Taotai for the correspondence between Ying Taotai and the ex Taotai Woo and the papers in regard to the award of Messrs Hamburg and Cunningham to all of which he refers in his statement to the Superintendant of Trade.

It is desirable also, since doubt is cast by the Taotai upon the question whether the steamer Keoyeor was used for Military purposes at Shanghai. to make inquires in regard to the matter from H.E. the Viceroy at Tientsin who at the time when the Steamer was so used was directing

directing Military affairs in that quarter. Will you therefore please ask the Viceroy whether the steamer Reorjeor was not used in connection with the Ward Corps and otherwise for military purposes, at and near Shanghai, during the year 1862-3 for a period of about 14 months, whether she was not captured where in such use by certain persons employed by the insurgents, and whether he has any knowledge that the charter money and an indemnity for the loss of the steamer has been paid or any part of it.

There is a gentleman resident at Nanking and now or until lately in charge of the arsenal there, who was in the Imperial service when the steamer was captured. His name is Macartney. I shall be obliged

if

if you will ask H. E. the Southern Superintendant of Trade to call upon him for a statement and for your information I may tell you that he went from Shanghai to Soonkiang on duty in the steamer, that he had just landed from her at Soonkiang when she was captured, and that he saw the captors take her away without being able to stop them.

I shall be greatly obliged if Y. I. H. will communicate to all the papers looked for, and the statements of the two Viceroys when they shall have been received.

I take this occasion to assure Y. I. H. of my high consideration.

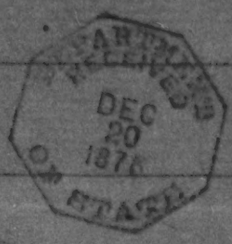
(Signed) George F. Seward.

Peking October 29th 1876.

Mr Bayon
acc fac 21 dec
Ackd Dec 22.

Mr Bayon

No. 150. Three Enclosures.



United States Legation.
Peking, October 27th, 1876

George F. Seward to
the Secretary of State.

Subject.

Charges against the Consul at Hankow.

Synopsis.

Mr. Myers reports serious charges but without detailing his information, and says that he proposes to visit Hankow to investigate them. Mr. Seward responds, cautioning him against a

a hasty acceptance of the reports. Mr. Myers responds stating that he has received claims against Mr. Johnson. Mr. Sewards learns, unofficially, that Mr. Myers has gone to Hankow.

No. 150. Three Enclosures.

United States Legation,

Peking, October 27th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:—

I have the honor to hand to you herewith a correspondence 1./2./3./150 which has passed between the Consul General and me, in regard to reported charges against the Consul at Hankow, who is now absent on leave.

Mr. Myers states, in his letter of August 18th, that it is reported that Mr. Johnson, previous to his departure from Hankow, obtained large sums

of

of money from various persons
"by representations and under
"conditions in his capacity as a
"Consular Officer", and that
"allegations of an attempt on his
"part to evade payment of debts
"due by him are freely made and
"discussed, seriously affecting
"the reputation of the Consulate
and the Government." He adds
"that, as these reports seem to be
"well founded, I propose to visit
"Hankow to learn the truth or
"falsity of them".

To this note I responded
under date of September 1st that
if Mr. Johnson "has been guilty of
"the conduct indicated, there must
"be persons who have suffered by it.

These

"These persons will be likely to
"appeal to you or to me, and until
"they do so, I suggest that you
"should accept with caution the
"statements brought to you. If
"in view of what I have said
"it appears to you desirable to
"proceed to Hankow you have
"my approval, but so long as
"there can be any doubt as to the
"truth of the allegations against
"Mr. Johnson, it will only be
"fair to conduct your inquiry
"with the utmost reserve and
"delicacy."

To this letter, Mr. Myers responded, under date of the 13th September that his object is more "to vindicate Mr. Johnson's reputation

"reputation, and the character
"of the Consulate, than to convict
"him, or injure both upon
"insufficient evidence. x x
" x. I have received claims
"upon Mr. Johnson exceeding
"in amount $400. I have also
"inquired of Mr. Bush the
"Vice Consul for information
"and am awaiting his answer".

I now learn that
Mr. Myers has started for
Hankow, but I have no word
from him as to the result
of the letter addressed by him
to Mr. Bush.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward

Enclosures.

1. Mr. Myers, (Aug. 28th,) to Mr. Seward.
2. Mr. Seward, (Sept. 1st,) in reply.
3. Mr. Myers (Sept. 13th,) to Mr. Seward.

Despatch No. 150
Inclosure 1.

No. 491.

United States Consulate
General Shanghai.
August 28th 1876.

Honorable George F. Seward.
United States Minister.
Peking.

Sir:—

I have the honor to inform you that it is reported to me that Mr R. M. Johnson, U.S. Consul at Hankow, now in route to the United States on leave of absence, has obtained large sums of money at Hankow from various persons just previous to his departure by representations and under conditions in his capacity as a Consular officer when his personal credit was not sufficient for such purpose. That allegations of an attempt on his part to evade payment of debts due by him are freely made

made and discussed, seriously affecting the reputation of the Consulate and the Government.

As these reports seem to me to be well founded. I propose to visit Hankow at a convenient moment, to learn if possible the truth or falsity of them. and have now to ask an instruction in the matter.

I am.
Sir.
Your Obedient Servant.

John C. Myers
Consul General.

Despatch No. 180
Enclosure 2.

No. 21.

Chefoo September 1st 1876.

John C. Myers. Esquire.
United States Consul General.
Shanghai.

Sir.

I have had the honor to receive your letter of the 28th instant.

As you have not detailed to me the sources of your information in regard to Mr. Johnsons, alleged dishonesties, nor stated the information in a precise manner. I am unable to advise you whether it is necessary for you to visit Hankow to make the proposed investigation. If it be true that he has been guilty of the conduct indicated in your letter there must be persons who have suffered by it. These persons will be likely. I think, to appeal to you or to me

and

and until they do so I suggest that you should accept with caution the statements brought to you. If in view of what I have said it appears to you desirable to proceed to Hankow, you have my approval for your course, but so long as there may be any doubt whatever as to the truth of the allegations against Mr. Johnson, it will only be fair toward him to conduct your enquiry with the utmost reserve and delicacy.

I have the honor to be
Sir
Your Obedient Servant.

P. S.

Please send a copy of their note to the Chinese State Department.

S.

Despatch No. 180
Enclosure 3.

No. 494.

United States Consulate General
Shanghai, September 13, 1876.

Honorable George F. Seward,
United States Minister,
Peking.

Sir:

I have the honor of acknowledging the receipt of your despatch in reference to R. M. Johnson's conduct as Consul at Hankow. My note in reference to permission to investigate the allegations as to his conduct was intended more to vindicate Mr. Johnson's reputation and the character of the Consulate in his charge, than to convict him or injure both upon insufficient evidence. It was for the purpose of proceeding properly in the matter that I solicited your

your Excellency's advice. Since the date of my injury I have received claims upon Mr. Johnson, at Hankow and Shanghai + exceeding in amount over $400. I have also enquired of Mr. Bush, Vice Consul at Hankow, for information concerning the matter and am awaiting his answer. His reply will + determine what course to + pursue in the premises.

I have the honor to be
Sir.
Your Obedient Servant.
John C. Myers.
Consul General.

Mr Wood

Mr Seward No. 137 Dated 30th Oct 87

Subject

French and English Iron-clads exhibited to Viceroy Li Hung Chang. Mr Seward explains to Viceroy our system of Coast defense and intends to have Capt Matthews of our Navy Capt Matthews afterwards visited the Viceroy and the latter now intimates a hope that he (Capt M) may be willing to enter the Chinese service After an examination it appears to me that this despatch should be acknowledged and copy sent to Secretary of the Navy

No. 70 Copy sent Jany 6.

Jany 4

J R Campbell

Navy

Copies to Secy of Navy January 6.
Ack. January 8

No. 151.

DEPARTMENT OF STATE
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FOREIGN Relations 77

United States Legation
Peking, October 30th, 1876

George F. Seward to
the Secretary of State.

Subject.

French and English iron clads displayed to the Viceroy Li Hung Chang. Our system of coast defense explained to him.

Synopsis.

Great efforts made by the English and French Admirals to display their vessels to the Viceroy at Chefoo. In consequence

Mr.

Mr. Seward asked Captain Matthews of our Navy to explain our system. The viceroy was interested and invited Capt. Matthews to visit Tientsin. He has done so, and the viceroy has intimated a desire for him to enter the Chinese service. Students being sent to France and England.

copied

No. 151.

United States Legation.

Peking, October 30th, 1876.

Honorable Hamilton Fish,

Secretary of State.

Sir:—

During the time that I spent at Chefoo last summer the port was visited by the English, French and German Admirals. Great pains were taken by them to exhibit their vessels to the Viceroy and Grand Secretary Li Hung Chang. He showed much interest in what he saw. This was natural, as he has had a great deal of experience in

in military and naval matters, is specially charged with the control of the Arsenals of China, and all the several flagships were excellent vessels, those of the English and French Admirals being iron clads.

I could not but feel during this time that our prestige as a naval power was likely to suffer in his eyes. Our Admiral was not present, and our one ship in harbor was of indifferent merit. Under these circumstances, and for other reasons, I felt disposed to point out to the Viceroy that our scheme of naval organization differs from

from that of France and England, not because we have less enterprise or knowledge, but because our position and wants are different. As a power of great territorial extent with no distant dependencies, and few occasions to anticipate a foreign war, we are content to provide thoroughly for the defense of our coast, and indisposed to expend large sums for the purchase of expensive iron clad cruising ships. As it happened the commander of the vessel of our navy then present in Chefoo was Captain Matthews, who, for a long time was in charge

of

of our torpedo school at Newport. I presented him to the Viceroy and the result was a long conversation between them which led the Viceroy to ask him to visit Tientsin. I communicated this invitation to Admiral Reynolds, unofficially, and he at once gave the necessary orders to admit of its acceptance.

I am now in receipt of a letter from Mr. Vice Consul Pethick in which he states that the Viceroy has, apparently, taken up largely the views which Captain Matthews has presented to him, and has gone so far as to intimate

a

a hope that he may be willing to enter the Chinese service.

You will be aware from my previous despatches that I recognize fully the facts that the efforts of the Chinese to improve their military power are costing them dearly, and that they are not showing an equal disposition towards the improvement of other branches of their administration. It will not be wise, however, to hold away from them for this reason. They learn but slowly, and one thing at a time, yet every step taken brings them nearer to a right conception of the duty of Government.

If

If they build ships now for purposes of defense, they will the sooner promote the building of those intended for commercial uses. If they establish arsenals for the manufacture of implements of war, they will the sooner favor the manufacture of plows, seed drills, and reaping machines. It is, moreover, not the part of kindness to stand by while they waste money in unnecessary or extravagant expenditures for military purposes, when we can show them economical ways of accomplishing the same results.

It

It is said that the Viceroy has been charged with the general supervision of coast defences, and that a sum of about six millions of dollars has been appropriated for immediate wants. This amount, judiciously expended, would do a great deal. If put into iron clad cruisers like the English flagship "Audacious," it would bring them further expense, and do them the least possible good.

About thirty advanced pupils from the schools established under the charge of Mr. Giquel, an officer of the French navy, are about to be sent

sent to England and France to complete their scientific and military education. M. Giquel will be stationed in Europe, and have a general supervision of their studies. He has been pressing the Viceroy to order iron clads, but I do not think it likely that he will be successful, although he is an officer of decided ability, and has done a great deal for the Chinese in military, and other directions. I cannot regret his failure in the given instance.

I shall hope that the course which I have taken, as indicated in this despatch

despatch will meet your approval.

I have the honor to be,
Sir,
Your obedient servant.
Wm H. Seward

de Payson

Mr. Edwards No. 15-2-156 Dated 30th Oct 1897

Subject

Cuban emigration. The Foreign office has asked the Ministers of the five Powers to mediate again for revision of the Spanish Treaty. Mr Edwards declines for the reason that the Spanish Minister has not requested a renewal of mediation

After an examination it appears to me that Mr Edwards reason should be approved by the Dept

J H Campbell
4 Jany

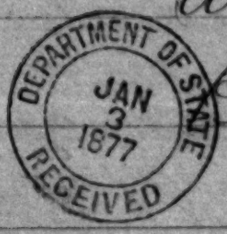
Advs Approve
Jay 4

Did so
January 8.

Answ Jany 8.

No. 152. Two Enclosures

United States Legation.



Peking, October 30th, 1876

George F. Seward to
the Secretary of State

Subject

Cuban emigration. Negotiations for revision of Spanish Treaty.

Synopsis.

The Foreign Office has asked the Ministers of the five Powers to mediate again. The Spanish Minister not having requested a renewal of mediation, Mr. Seward has informed the

Foreign

Foreign Office that it is not consistent for him to act as requested. How the mediation of last year was broken off. The disposition of the Spanish Government towards mediation.

No. 152. Two Enclosures.

United States Legation.

Peking, October 30th, 1876

Honorable Hamilton Fish.

Secretary of State.

Sir:-

After the settlement of the Yunnan affair, the Foreign Office addressed a letter to the Ministers of England, Russia, Germany, the United States, and France, saying that the Spanish negotiations of last year were broken off owing to the British Minister's withdrawal from mediation in consequence of the Yunnan difficulty, that this matter had been settled and

1/152

and it would now be well to go forward with the Spanish matter.

The Foreign Office was not accurate in stating that the withdrawal of Sir Thomas Wade had had the result indicated. In effect, he withdrew, but returned to the negotiation very soon. The negotiation fell because the Spanish Minister declared his inability to accept the advice which the mediators had proposed.

Before this letter reached me, I had had some conversation with the Spanish Minister which led me to believe

believe that he did not care to ask for the assistance of his colleagues. I could see no reason why I should press my services upon him, and in fact was glad to avoid the business in the absence of instructions from you, the more so because I gathered from what he said that the Spanish Government had not been entirely pleased with inquiries which several Representatives at Madrid had made in regard to this same matter.

I therefore responded to the Foreign Office briefly that while always ready to render assistance in the solution of pending

2/152.

of pending questions, I should be unable to enter upon this matter, until formally invited to do so by my colleague, the Spanish Minister.

I have not sought to ascertain how my colleague, [illegible], is progressing with his business. I know, only, that he has had frequent conversations with the Foreign Office, and that he does not seem entirely pleased with the result. On the other hand, Chên Lan Pin, who is to go to the United States as Minister, has informed me that he will not start until the Spanish Treaty matter has been

been settled, and again, that he expects to start very soon.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward

Enclosures.

1. Prince Kung to Mr. Seward
October 4th 1876
2. Mr. Seward in reply.
October 7th 1876.

Despatch No. 152.
Enclosure 1.

Copy
To H.E.
George F. Seward,
&c. &c. &c.

In the Cuban coolie matter, negotiations were suspended because of the receipt of a note from H. E. Sir Thomas Wade, the British Minister declaring that, until the Yunnan matter was settled, he could not join in them. Upon the 2nd instant this office received a note from the British Minister stating that the Yunnan case having been disposed of, it was his purpose to return to England.

It therefore becomes our duty, in the Cuban coolie business, to request the several Ministers to fix a day for its consideration.

Having to that effect addressed Sir Thomas Wade we beg that Y. E. will also confer with him, and fix a day for

for conference.
with cards &c.

Peking Oct. 4th 1876.

Despatch No.
Inclosure 2.

Copy.

United States Legation.
Peking, October 7th 1876.

The undersigned has had the honor to receive the note of Y. H. and Y. Es regarding the Cuban affair.

The undersigned is instructed by his Government to cooperate at all times in the treatment of measures affecting the common interest.

In the present business, mediation was formally renounced by the several Ministers last year. Under these circumstances, the undersigned cannot see his way to renew intervention, until the Spanish Minister also shall invite the cooperation of himself and his colleagues, the Representatives of other Powers.

The undersigned takes this opportunity, etc.

(Signed) George F. Seward

Recd January 9.

DEPARTMENT OF STATE
JAN 3 1877
RECEIVED

No. 153. Two Enclosures.

United States Legation

Mr Payson

Mr Seward No. 153 Dated 30th Oct 1876

Subject

Conferences of Foreign Representatives in regard to Commercial, Judicial and Commercial questions raised in Chefoo agreement.

After an examination it appears to me that this despatch requires acknowledgment with approval of Mr Seward's memorandum of points to be discussed

J H Campbell
4 Jany

Adv - Approve -
Mr Seward's Memo - suggests the case of question which it is desirable to have determined
Jy 5 Wrd so Jany 9

Recd January 9.

DEPARTMENT OF STATE
JAN 3 1877
RECEIVED

No. 153. Two Enclosures.

United States Legation
Peking, October 30th, 1876.

George F. Seward to
the Secretary of State.

Subject.

Conference of the Foreign Representatives in regard to the Ceremonial, Judicial, and Commercial questions raised in the Chefoo Agreement.

Synopsis

Two conferences have been held. Owing to the unwillingness of the British Minister to separate the

the issues from the Chefoo Agreement, and the dissatisfaction of the other Ministers with the situation, the conferences were unavailing. Mr. Seward submits a memorandum of points needing discussion.

No. 153. Two Enclosures.

United States Legation.

Peking, October 30th, 1876.

Honorable Hamilton Fish,

Secretary of State.

Sir:—

I had the honor to inform you, under date of the 3rd inst. that the several foreign Representatives had answered the note of the Foreign Office asking them to discuss certain issues raised in the Chefoo Agreement, in identical notes to the effect that it would be more convenient for the Ministers to decide for themselves, with the Foreign Office, the questions

questions which ought to be considered.

I hoped that this letter would not betray to the Foreign Office, in a prominent way, the dissatisfaction felt with the course which our colleague, the English Minister, had pursued. For my own part, I felt that we had much occasion to be grateful for his action, although I was not pleased with the awkward position in which, with the best intentions, he had placed us. My object, however, was to make as little of the disagreeable features of the situation as possible, and to preserve the

opportunity

opportunity to enter upon the discussion of the issues raised. The identical note which we returned to the Foreign Office was intended to put us right in the one direction, and to leave us free to approach the consideration of all issues harmoniously.

In a conversation which I held with the British Minister, after the identical note was despatched, I urged him to accept it as a new basis, and to work from it, pointing out that the Foreign Office could not refuse to discuss with us, if we asked them to do so, the issues which they had

agreed

agreed with him to bring before us. I understood him to assent to my argument.

On the 20th instant, Sir Thomas Wade asked the Ministers generally to meet at his office for conference. In pursuance of this invitation a conference was held, which was attended by all except Mr. von Brandt, who was not well. A discussion of several hours duration ensued, during which the conversation drifted back to the question whether the several Representatives who signed the identical note of October 2nd, had been unnecessarily exigeant in refusing to discuss the questions proposed

proposed by the Foreign Office, in the form in which they were advanced, and whether they could discuss them at all, until the Foreign Office should respond to the identical note. Running along with the discussion of these points, were other discussions regarding the merit of individual issues. The meeting, as a matter of course, broke up without result.

On the 25th instant, a second conference was held. At the outset M. von Brandt laid upon the table a note 1/153.
expressing his inability to enter upon a discussion with the Foreign Office which should touch

touch questions embraced in the scheme for the revision of the German Treaty. The difficulty which he would meet in doing so was recognized, but, as it seemed to me that the excepted questions were only a few of those which need discussion, I brought forward

2/153. a memorandum which I had prepared, stating the issues under the heads of Ceremonial and Judicial questions, to which I thought we ought to give attention, and said that, in my opinion, we could advance affairs only by setting down the questions which demand attention, and by discussing them

them in order, putting some aside as not opportune, others for reference to our Governments, and others for discussion with the Foreign Office, as we should decide in view of all the considerations advanced.

For various reasons the conversation, at this meeting, took the same turn as at the previous one, and was equally barren of results.

I have the honor to be,

Sir,

Your obedient servant.

Geo. F. Edmunds

Enclosures

Enclosures.

1. Note of Mr. von Brandt.
2. Mr. Sewards memorandum of questions pertaining to ceremony and etiquette, and the course of judicial matters.

Despatch No. 153
Enclosure 1.

Copy.

Le Ministre d'Allemagne regrette de ne pas pouvoir entrer pour le moment dans une discussion ayant pour but d'amener des pourparlers avec le Gt. Chinois au sujet de quelques points composant faisant partie du projet de revision communiqué par le cabinet de Berlin aux cabinets des Puissances signataires de traités avec la Chine, avant que les negociations qu'il pourrait avec le Tsung li Yamen au sujet de la revision du traité Allemand-Chinois ne lui aient donné la conviction qu'une base satisfaisante pour la revision generale du traité ait été obtenue.

Le Ministre d'Allemande en faisant cette declaration est convaincu que ses collègues ne verront rien de plus que le resultat inevitable de la situation donné et ne douteront ni du désir de son Gouvernement ni du sien propre

à maintenir intact le principe de l'identité des intérêts et de la action commune que le Gt Allemande regarde le plus important pour les relations entre les Puissances signataires et la Chine.

Translation.

The German Minister regrets that he cannot, at the moment, enter upon the discussion, with the view of bringing them to the notice of the Chinese Government of the Commercial points which form a part of the revision project communicated by the Cabinet at Berlin to the various Powers having Treaties with China, before the negotiations which he is pursuing with the Tsung li Yamen upon the subject of the revision of the German Chinese Treaty have reached what shall appear to be a satisfactory basis.

The German Minister in making this declaration is convinced that his Colleagues will only see in it a necessary result of the existing situation and will doubt not the desire

of

of his Government to maintain intact the principle of the identity of interests and the harmonious action which the German Government regards as of the utmost importance in the relations between the Treaty Powers and China.

Despatch No. 153
Enclosure 2.

Memorandum for the Conference of Foreign Representatives at Peking

Questions which may need discussion either between the Foreign Representatives themselves, and thereafter with the Foreign Office, or to be referred to the several Governments.

Under the heads of Official Intercourse, and Judicial matters, the following questions may be raised:-

I. Official Intercourse.

a. The Audience. The Emperor is a boy of six years of age. The Regents are women. We did not insist upon an Audience with the Emperor or with the Regents, or with both. Ought we to do either of these things? b. Letters of Credence. If the Audience is not to be asked, what should be

be done with our Letters of Credence. At present we do not on first presenting ourselves at the Foreign Office, or afterwards, even mention our credentials. Before the accession of the late Emperor the practice of successive American Ministers was to present, Letters of Credence to the Foreign Office, and to ask an acknowledgement from the Emperor in the form of a letter to the President. Some other Ministers presented their Letters to the view of the Foreign Office, but did not not hand them in. Others, perhaps, handed in copies. Should we adopt the one or the other of these courses, or go on as at present.

c. If we go on as at present, ought we to make any explanations or remarks to the Foreign Office, about the Audience or about our proceedure.

d

d Intercourse with high Officials at Peking. Previous to the last Chinese New Year there was no intercourse between the Foreign Representatives and the High Officials of the Government resident at Peking. At that time 26 High Officers were at the Foreign Office to receive the Foreign Representatives left cards in return, at the offices or residences of the 26, but were not received any where, Was this procedure satisfactory? If not, can it bettered at the coming New Years?

e What should a Foreign Minister do upon arriving at Peking? Should he call personally upon the High Officials of the Capital, or take his cards to their doors, or send them.

f. The Intercourse of Consuls and High Officials in the Provinces. High Officials in the Provinces

Provinces expect Consuls to address them in the form of memorial. They return answers accordingly. This is the system provided by the Treaties. Is it satisfactory?

g. Consuls are sometimes required to enter the Yamens of High & Provincial Officials by the side doors. Should any question be raised regarding this.

h. The intercourse of naval & Commanders and Provincial Officials. The etiquette between these has never been settled. Should the subject receive attention.

i. Generally, a Code of Etiquette

Is it possible, or desirable, to provide a Code regulating the etiquette which should be observed at the Capital and in the Provinces, or should questions of etiquette be treated as they raise?

II. Judicial Matters.

j. Jurisdiction. Sir Thomas Wade's Chefoo Agreement provides that

that any civil matter arising between a British subject and a Chinese shall be heard and determined in the Court of the Defendant. Do we all take this view? If so, do the Treaties need modification or explanation in this regards.

k. Code of Commercial Law.

There is a certain correspondence between the commercial laws of Western countries, but the Chinese have no commercial laws. Ought we to make an effort to induce them to adopt a Code of Commercial laws. If so, ought we to adopt the same Code for our respective nationals in China, in affairs of a mixed nature?

l. Defects of Chinese Courts.

At present it is difficult to learn at the ports what Chinese Officials have jurisdiction in the different classes

classes of cases which arise, It is difficult, also, to gain access to the Courts for the parties complaining, and their witnesses. Other difficulties arise from the fact that there is no established procedure in Chinese Courts. For Foreign suitors there is no provision for appeal. As a rule no records are made upon which appeal proceedings can be based. Judgments are not satisfactorily enforced. These difficulties and failures occasion constant embarrassment to foreign officials and suitors. Can we do any thing to improve the situation.

III. Cases occurring in the Interior.

The Chefoo Agreement provides that when a crime is committed affecting the property or person of a British subject in the interior, the British Minister

Minister shall be free to send officers to the spot to be present at the investigation Heretofore such offenders, as a rule have been brought to the port for trial. Do other Ministers need to take any action with a view to arrive at an understanding with the Government as to what the procedure shall be when their nationals are affected?

The Foreign Office could not refuse to discuss any of the foregoing questions with us, as they have asked us to discuss with them the general situation so far as commercial and judicial matters are concerned.

We are at liberty, perhaps, to raise many other questions, among which are the following.

III. Passports.

Passports for travel in China are

are sometimes applied for by travelers at Peking.

Some of the Foreign Representatives issue them as is usual in Western countries. In such case they are submitted to the Foreign Office and returned if in order, with the seal of the Fu Magistrate. Other Ministers apply to the Foreign Office and its seal is attached. Which is the more desirable course. If the former, should we ask for the seal of the Foreign Office.

IV. Collision Code.

The Chinese are now owning and operating steam naval and commercial vessels. They have not adopted the international collision code. Should an effort be made to secure their adoption of it.

The

The foregoing questions have been set down irrespective of the writer's idea of their importance. Some of them, certainly, need attention. The undersigned is prepared to discuss any or all of them with his colleagues, for such action by way of reference to the home Authorities or of negotiation with the Foreign Office as may be appropriate. He is prepared in the same way to take up any or all Commercial questions which may be raised. The decision of the German Treaty may interfere, for the moment with the discussion of Commercial questions between the Diplomatic body and the Foreign Office, but, perhaps, not as between the Foreign Representatives.

(Signed) George F. Seward.

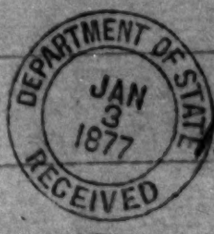
Peking October 25th 1876.

Ack^d January 8.

Acdy Jany 4

Mr Payson

No 154.



United States Legation
Peking, November 4th, 1876

George F. Seward to
the Secretary of State.

Subject.

Ministers of China to England
and Japan.

Synopsis.

As they are about leaving, Mr
Seward has given to them notes
of introduction to our Ministers
at London, Berlin, Paris, and
Tokio. He entertained the Ministers
to Japan and the United States.

No. 154.

United States Legation.

Peking November 4th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:-

I have the honor to inform you that their Excellencies Kwo Sung Tao, and Lin Hsi Hung, who have been appointed first and second Ministers to England have called to take leave of me before starting, at an early day, for London.

Kwo is a member of the Foreign Office and Vice President of the Board of War, Lin is Vice President of the Board of Punishments

Punishments. I have seen the former on several occasions, at Shanghai and since my arrival here, and have formed a very favorable opinion of his ability and good disposition. The latter appears to be a man of good parts and temper.

The Mission is sent, primarily, in pursuance of the Chefoo Agreement to express the regret of this Government for the occurrences in Yunnan, of which the British Government has had occasion to complain. It is intended, however, to be permanent.

At the request of the Ministers, I have prepared letters

letters of introduction for them to Mr. Pierpont, Mr. Washburne, and Mr. Davis.

Hsü Chien, then, a protegé of the Viceroy Li Hung Chang and appointed Minister to Japan, has also called to see me. He is a young man of a very prominent family, of considerable experience in foreign affairs, of good ability and a pleasing address. I have, at his request, prepared a letter of introduction for him to Mr. Bingham.

I have taken advantage of the presence of the Ministers named, and of Chêng Lan Pin, the Minister to the United States, to invite them to dine with me.

The

The Ministers to England plead the pressure of their engagements, as an excuse for declining my invitation. The Ministers to the United States and Japan, and the Secretary of the former, came, as well as the Chargé d'Affaires for Japan. They all appeared to feel at home, and the dinner passed off most pleasantly.

I find the least possible disposition among my colleagues to develop social intercourse in this way, with the high officials of the Capital. If I may judge by my recent experience, it would be easy to do this, and the

the advantages, manifestly, would be great. I am told, however, that the experiments heretofore made, have not given entirely satisfactory results.

I have the honor to be,

Sir,

Your, obedient servant.

Wm F. Stroud

Order appears did so January 6, '77
for 4

Mr Payson

No. 135. One Enclosure.

United States Legation.
Peking, November 11th, 1876.

George F. Seward to
the Secretary of State.

Subject.

Smuggling on the Yangtze.

Synopsis

Mr. Seward has heard that smuggling is going on from the lorcha class of vessels, and has requested the Consul General to exercise great care in granting certificates to such vessels.

No. 155. One Enclosure

United States Legation.

Peking, November 4th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:-

Having been informed in an unofficial but authentic manner that a class of native vessels called lorchas, many of which are owned by our countrymen, and fly the American flag, have been engaged, of late, in smuggling salt on the Yang tze river, I have sent a note to the Consul General, calling his attention to the fact, and asking him to exercise

exercise care in granting passes to such vessels, and in enforcing the laws which require the names of vessels to be painted on their sterns, and the Master and officers to be Americans.

I have requested him to send copies of my note to the Consuls at Hankow, Chinkiang and Kiukiang, at which ports, and Shanghai, such vessels are fitted out. I enclose herewith a copy of my letter for which I beg leave to ask your approval.

I have the honor to be,
Sir
Your obedient servant.
Geo. F. Seward

Enclosure
Mr. Seward, Nov. 15 to Hon. Myers.

Despatch No. 153
Enclosure.

No. 33.

United States Legation.
Peking November 10th 1876.

John C. Myers, Esq.
U. S. Consulate General.
Shanghai.

Sir:—

It has been reported to me that lorchas running on the Yangtsze river under foreign flags have been engaged in smuggling salt.

A recent circular of the Department of state indicated that there is a question whether our people can expect the protection of our flag for vessels not built in the United States. It has been customary to provide such vessels, when purchased in good faith by our countrymen, with a certificate of ownership (Form 35. Consular Regulations.) under which they have

have enjoyed all the privileges of registered ships, and this may be done hereafter until contrary instructions are received.

It is not desirable, however, to grant this certificate to any vessel, excepting upon clear proof that the person applying for it is a citizen of the United States, has purchased the vessel in good faith, and is the bona fide owner. These certificates are often sought for vessels of the lorcha class in particular, in order to protect them from the taxes regularly or otherwise levied upon Chinese-owned vessels, American ownership being nominal only. The greatest care should be taken to guard against the granting of certificates in such cases. The law which requires the name

of

of vessels to be painted on her stern should be rigidly enforced, as also that which provides that the Master and mates shall be citizens of the United States.

You will please transmit copies of this note to the Consuls at Ningpo, Chinkiang, and Hankow.

I am Sir.
Your Obedient Servant.
(Signed) George F. Seward.

Ackd January 8.

Ackd Jany 4

de Rayston

No. 156.

United States Legation

Peking, November 8th, 1876.

DEPARTMENT OF STATE
JAN 3 1877
RECEIVED

George F. Seward to
the Secretary of State.

Subject.

The Cuban Emigration. Spanish
Treaty.

Synopsis.

The Spanish Minister prepared
to accept the scheme of the
mediators of last year. The
Chinese interpose difficulties.
The situation probably reported
to Madrid, and negotiations suspended.

No. 156.

United States Legation.

Peking, November 8th, 1876

Honorable Hamilton Fish,

Secretary of State.

Sir:

I have heretofore advised you that the Spanish Minister is conducting a negotiation for the revision of the coolie emigration clause of the Spanish Treaty. I had a conversation with him to day in which he told me substantially, that he had been prepared to accept, on behalf of his Government, the scheme which was proposed last year,

by

by the Representatives of the five Powers, who were then acting as mediators between the Spanish Legation and the Foreign Office, but that the Foreign Office had interposed many difficulties.

From the way in which he spoke, I judge that he has suspended negotiations, and applied to his Government for instructions.

I have the honor to be,
Sir,
Your, obedient servant
Geo. F. Evans

Ack^d January 8.

Dec^r Jan^y 4

Mr Payson

No. 157.

United States Legation

Peking, November 8th, 1876.

DEPARTMENT OF STATE
JAN
3
1877
RECEIVED

George F. Seward to

the Secretary of State.

Subject.

German treaty revision.

Synopsis.

The negotiations have been opened. The Foreign Office has met the German Minister unfavorably, but have modified their position, and already made some minor concessions to him. The Lekin question. The

mint

Minn. Judicial reforms.

No. 157.

United States Legation

Peking, November 8th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:—

Within the last fortnight, Mr. von Brandt, the Envoy of Germany has resumed his negotiation for the revision of the German Treaty which had been interrupted by the pre occupation of the Government with the Yunnan matter, and the British Minister's efforts to secure various commercial advantages in his settlement of that business. I judge from

from what Mr. von Brandt has told me that the Foreign Office met his proposals in a most unpromising way but that his attitude had been such as to enforce upon them the conclusion that it will be wiser to yield measurably to the wishes of his Government.

They have already consented to make provision that drawback certificates for foreign goods reexported, shall be payable in cash, and that no duties shall be charged on dock stores, or upon the materials of vessels broken up.

I understand from Mr. von Brandt, that he has taken

up

of a more pronounced opinion in regard to Pekin taxes, and now holds, as I do, that it is illegal to levy any duties or taxes on foreign goods, saving the import and barrier duties, and that the latter may be commuted by payment of a half import duty. It is likely that he will yield some part of this position, as Sir Thomas Wade has already done, if the Chinese will make concessions of value to him.

I have told Mr. von Brandt of the situation of the Mint scheme, and he is likely to secure a recognition of

of the need of an improved currency, which will be favorable to our silver interest, and to commercial interests generally.

He has informed me that he has instructions not to approach the question of judicial reforms.

I have not yet received your instruction to cooperate with M. von Brandt, but hope that it may come by a mail now nearly due.

I have the honor to be,
Sir,
Your obedient servant.
Geo. F. Seward.

Ack January 8.

Ack Jany 4

Mr Payson

No. 158.

United States Legation.
Peking, November 11th, 1876.

George F. Seward to
the Secretary of State.

Subject.
The Mint scheme.

Synopsis.
The Government shows no disposition to withdraw, but may do so unless bound to the scheme in some way. Mr. Seward has spoken with Mr. von Brandt, who will endeavor to bring the matter into his treaty revision.

revision.

No. 158.

United States Legation.

Peking, November 11th, 1876.

Honorable Hamilton Fish,

Secretary of State.

Sir:—

The Inspector General of Customs has lately returned to Peking, and I have taken occasion to ask him about the Mint proposal. He states that the Government has not shown any disposition to withdraw their assent, and that he is about to prepare a full report, for the Viceroy at Tientsin, upon the organization and expenditures which will be needed,

needed. He could not say how soon active work would be undertaken.

There is no reason to believe that the Government, or any of its officials, take any great interest in the Mint, and, as things go in China, it will not be surprising, in case this business is not carefully looked after, if it falls through entirely.

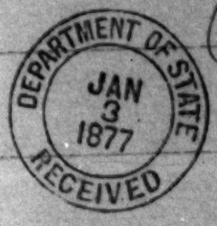
Under these circumstances, I have thought it the part of wisdom to disclose the situation to the German Minister, and to ask him to endeavor to procure a declaration from the Government that they will undertake to establish

establish a coinage system within a defined period. His Government has in view, in their treaty revision scheme, as you know, the improvement of the Chinese currency, and he is at liberty therefore to approach the business more freely than I could.

I have the honor to be,
Sir,
Your obedient servant.
(Signed) T. Edwards

Ack' January 8 '77 Payson

No. 159. One Enclosure.



United States Legation
Peking, November 13th, 1876.

George F. Seward to
the Secretary of State

Subject.

German treaty revision.

Synopsis.

The Secretary of State's telegram, instructing Mr. Seward to cooperate, received.

No. 159. One Enclosure.

United States Legation.

Peking, Novem. 13th, 1876

Honorable Hamilton Fish.

Secretary of State.

Sir:-

I have had the honor to receive your telegram of the fourth instant, instructing me to cooperate with the German Minister, in his efforts to secure a revision of the German Treaty, as suggested in my despatch, number 96. 1/159

I have the honor to be,

Sir,

Your obedient servant.

Geo F. Seward.

Enclosure.

Enclosure.

Copy of telegram as received.

Despatch No.
Enclosure

Copy.

Telegram No 837

Washington ——— ———

Seward.

Minister

Care Consul Shanghai

Cooperate generally as
suggested in ninety six.

Fish, Secretary

Washington November 17th ".

2

Acknowledged January 8. W. Payson.

No. 160.

United States Legation
Peking, November 14th, 1876

George F. Seward to
the Secretary of State.

Subject.

Receipt of despatches.

Synopsis.

Department's despatches numbered from 71 to 83. inclusive, and circular of September 18th, received.

No. 160.

United States Legation.

Peking, Novem. 14th, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir

I have the honor to acknowledge the receipt of your despatches, numbered 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. and 83. with their several enclosures, as also your Circular of September 18th covering certain interrogatories in regard to relative values of gold and silver.

I have the honor to be, Sir, Your obedient servant.

Wm. F. Reed

Ack'd January 8.

Ackd Jany 4

Confidential Mr Payson

No. 161.

United States Legation.

Peking, November 14th, 1876.

George F. Seward to
the Secretary of State.

Subject.

The Mint scheme.

Synopsis.

Mr. Seward has confidence that Mr. von Brandt will bring it into his treaty revision Sir Thomas Wade knew that the Chinese would grant the Mint if he asked it. His failure a matter of surprise to the Inspector

Inspector General.

Confidential.

No. 161.

United States Legation.

Peking, Novem. 14th, 1876.

Honorable Hamilton Fish,

Secretary of State.

Sir:-

I have had the honor to address you, by this mail, in regard to the Mint scheme. I feel great confidence that Mr. von Brandt will be able to guarantee the establishment of a Mint, and, looking to all circumstances, it is far wiser for me to put the business into his hands than to undertake it myself.

You are aware that I

I counted greatly upon the prospect that Sir Thomas Wade would procure the promise of the Chinese to take up this matter, and that his failure to bring it into the Chefoo Agreement, disappointed me. I now learn from the Inspector General of Customs, that he distinctly informed Sir Thomas, that the Chinese would yield this to Mr. Hart was as much disappointed as I was that he failed to improve his opportunity.

Before speaking fully to Mr. von Brandt, I obtained Mr. Hart's consent

to

to do so. He entirely agreed with me that it would be wise to take this course.

I have the honor to be,
Sir,
Your obedient servant.
Wm H. Seward

This despatch should not be printed at any time. S.

DEPARTMENT OF STATE
JAN 29 1877
RECEIVED

Mr Payson
Ans Feby 6-

Mr Payson

No. 162.

United States Legation,
Peking, November 15th, 1876.

George F. Seward to
the Secretary of State.

Subject.

German treaty revision.

Synopsis.

Mr. Seward has informed Mr. von Brandt that he has received instructions to cooperate. He has asked him what assistance he expects, and particularly whether he proposes to make a trade in

Peking

Lekin matters, and has received an assurance that nothing of this kind will be done, without the full concurrence of all the Ministers.

No. 162.

United States Legation.

Peking, November 15th, 1876.

Honorable Hamilton Fish

Secretary of State.

Sir:—

I had the honor, on the 8th instant, in my despatch number 157, to inform you that the German Minister had made some advance in his negotiations for a revision of the German treaty. In the same despatch, I stated that he had assumed the position in regard to Lekin taxes, to which I have held throughout and suggested that

that he might intend to yield something in this connection, in return for concessions on the part of the Chinese.

Up to this moment, Hr. von Brandt has spoken freely to his colleagues of the course of his negotiations, but he has not asked them, or any of them, to enter upon any joint representations to the Government.

Having secured your telegraphic instruction to cooperate with him, it became my duty to communicate the fact to him, and to ask him how far he looks for our assistance.

assistance. I saw him accordingly to day, and asked him this question. He responded that, so long as he is able to carry forward his work by himself, he will not think it necessary to give me trouble over his business, that, however, he will keep me informed of his progress, and that, at an early moment he may look to me for advice and, perhaps, more active assistance.

I then said that my instructions had come by telegraph, that they referred to my report on his revision scheme, in which I had not altogether agreed with the

German

German proposals, that
notably in the Lekin matter,
I had expressed a more "
positive view, and that "
whether our cooperation should
or should not become active,
it becomes of interest to me
to know how he will deal
with it. For if he should go
on, as the British Minister
had done at Chefoo, making
capital of Lekin and trading
it off for privileges, it would
be awkward, excepting upon
a defined understanding, to
cooperate with him, and
awkward again to be left
to hold, singly, a view not
agreeable to the Chinese.

Lo

To this Mr. von Brandt responded fully and frankly by stating that he had not intimated to the Chinese that he would make any such trade, that it is a grave question and affects all interests, and that he will not take any action upon it until he has reached a full understanding with his colleagues.

His statement has relieved me of much anxiety and affords an assurance that the Tekin question will receive that serious attention which its importance demands.

I

I may say that, while looking with disfavor upon the whole Pekin business, not so much because our goods are taxed, but because they are taxed in a vicious and unseemly way, I shall not refuse to listen to any proposal which will promise an amelioration of general interests.

During the course of our conversation, I spoke again of the Mint and Post Office schemes, the collision rules, and particularly and at length of the need of reform in judicial matters. His answers were again, as I had found them

them on previous occasions, entirely in accord with my views, and left me free to believe that he would be able soon to take up the last named matter.

I have the honor to be,
Sir,
Your obedient servant.
Wm H. Seward

Adv. Aug 11

Ack. January 8.

DEPARTMENT OF STATE RECEIVED JAN 31 1877

Mr Payson

No. 163. One Enclosure.

United States Legation

Peking, November 17th, 1876

FOREIGN RELATIONS 77

George F. Seward to

the Secretary of State.

Subject.

Punishment of official corruption in China.

Synopsis.

Two officials sentenced to death for falsifying accounts. Other high officials to be degraded for not discovering that the frauds were being perpetrated.

Copied

Mis with inclosure

No. 163. One Enclosure.

United States Legation.

Peking, Novem. 17th, 1876

Honorable Hamilton Fish

Secretary of State.

Sir:—

It may be interesting for you to read the enclosed translation of an Imperial decree confirming a sentence of death upon two officials who have been guilty of falsifying accounts to the extent of 49 000 taels or about 65,000 dollars, and directing the Board of Punishments to determine what penalty shall be inflicted upon certain high

1/163

high officials" for their
"failure to discover that these
"frauds were being perpetrated."

I have the honor to be,
Sir,
Your obedient servant.
Alleyne F. Ireland

Enclosure
Printed translation of an
Imperial Decree.

Despatch No. 163.
Enclosure.

Oct. 14th.—(1) A decree in answer to a memorial from the acting Governor-General of Min-chêh and Ting Jih-ch'ang, Governor of Fuhkien, with reference to embezzlements that had been practised by certain officials employed in purchasing munitions of war. It is found that the expectant Department Magistrate Shên Ch'un 沈純 and the expectant Sub-Prefect Wên Shao-yung 文紹榮 have been guilty of falsifying the accounts of purchases made by them to the extent, in the one case, of Taels 21,000, and in the other to that of Taels 28,000, over and above the proper sum. For conduct so illegal and corrupt, a rigorous punishment must needs be awarded. It is decreed, in conformity with the sentence proposed, that Shên Ch'un and Wên Shao-yung do suffer death by decapitation after imprisonment to await the period of revision. Proceedings are farther to be taken to enforce restitution of the sums embezzled, report being made to the Throne, at the expiry of the period allowed for recovery of the money, declaring whether repayment in full has been effected. As regards the Sub-Prefect Chow Sing-i 周星詒, who alleges in his statement that he was not in any wise implicated in the embezzlements perpetrated, it was nevertheless due to his failure to apply a proper scrutiny in the arrangements for the purchase of certain vessels that so great a loss as one hundred thousand dollars was entailed. Confirmation is awarded to the sentence propounded in his case, viz., that he be required to make good the amount in full, and be transported to penal servitude on the Mongolian post-roads, there to redeem by his exertions the offence he has committed. For their failure to discover that these frauds were being perpetrated, We command that the following officials be handed over to the Board for the determination of a penalty, viz., Li Ho-nien, ex-Governor-General of Min Chêh; Pao-hêng, Financial Commissioner, and President of the Military Board in Fuhkien; Lu Shih-kieh, Salt Commissioner; Yeh Yung-yuan, Grain Commissioner; Wên-ki, ex-Salt Commissioner; and Ow T'ien-min, ex-Grain Commissioner. As the offences in question did not occur during Ting Yih-chang's term of office, no punishment need be visited upon him, his request to the contrary notwithstanding.

Mr Rayson -

Ack Feby 6

DEPARTMENT OF STATE
JAN 29 1877
RECEIVED

Mr Rayson

No. 161.

United States Legation,
Peking, November 22nd, 1876.

George F. Seward to
the Secretary of State.

Subject.

The Chefoo Agreement.
Conferences of the Diplomatic
Body.

Synopsis.

Refers to previous despatches,
and states that Sir Thomas
Wade has left for England, and
that three conferences of Ministers
have been held with good results.

No. 164.

United States Legation.

Peking, November 22nd, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:—

On the 3rd of last month with my despatch, number 134, I had the honor to transmit to you a copy of the Chefoo Agreement. I at the same time informed you that the various matters which, by the terms of the Agreement, were to be referred to the Diplomatic Body for consideration, would, no doubt, soon come under discussion. For this reason

I

I refrained from any
extended comments on the
Agreement.

On the 30th ultimo,
I again addressed you (number
153) stating that two conferences
of the Diplomatic Body had
been held, and that they had
led to no results.

A few days after the
last meeting the British
Minister received a leave of
absence, and left for England.
The Secretary of Legation, Mr.
Fraser, will be in charge after
Sir Thomas Wade has finally
left the coast.

By the departure of
Sir Thomas, Mr. de Butzow,
the

the Russian Minister, becomes the Dean of the Diplomatic Body.

Since the departure of the British Minister, we have already held three conferences. The object has been to prepare a joint statement of our views upon the questions raised in the Chefoo Agreement, to which I have already referred. These meetings have disclosed a decided community of sentiment in regard to ceremonial and judicial matters. It will be found, I think, that the opinions of the several Ministers, in regard to Commercial issues, are

are also harmonious.

I hope to be able to send you the protocol of our meetings by the next mail.

I have the honor to be,

Sir,

Your obedient servant.

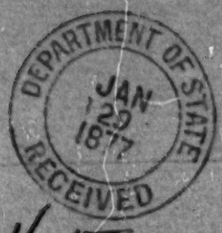
Geo. L. Ward

Mr Payson

Ack Dec 30 Jany

Ack Feby 6

Mr Payson



No. 165.

United States Legation

Peking, November 22nd, 1876.

George F. Seward

to

Secretary of State.

Subject.

Customs Gazette.

Synopsis.

Two copies of Customs Gazette for second quarter of current year forwarded under separate cover.

No. 165.

United States Legation.

Peking, November 22nd, 1876.

Honorable Hamilton Fish.

Secretary of State.

Sir:—

I have the honor to hand to you, under separate cover, two copies of the "Customs "Gazette, Number XXX. April "June, 1876", as published by order of the Inspector General of Chinese Maritime Customs.

I have the honor to be,

Sir,

Your obedient servant.

Geo. F. Seward

Mr Payson

Mr Payson

Acr. Copy with enclosure to Pekin for his information. Request return of printed enclosure

Did so January 31, 1877

DEPARTMENT OF STATE
JAN 29 1877
RECEIVED

No. 166. One Enclosure.

United States Legation

Peking November 25th, 1876.

George F. Seward to

the Secretary of State.

Subject.

Postage rates between Hongkong and the United States. Postal facilities generally.

Synopsis.

The Hongkong Government charges eight cents on letters to the United States, while five cents only are charged from the United States to Hongkong.

The

The Postmaster General at Hongkong says that they could not refuse to reduce this rate, if asked by us. Information requested regarding postal matters after January 1st.

No. 166. One Enclosure.

United States Legation.

Peking, November 25th, 1876.

Honorable Hamilton Fish

Secretary of State.

Sir:—

One of our country men resident at Canton, has called my attention to the fact that the Hong Kong Post Office charges eight cents on each one half ounce letter despatched from Hong Kong and the ports of Foochow, Amoy, Swatow, and Canton to America, while the charges made in the United States for letters sent to those ports is five cents.

By the terms of a Postal Treaty

Treaty made between our Post Office Department and that of Hong Kong, on the 12th of November, 1867, letters may be exchanged between Hong Kong and the New York and the Francisco offices, by American mail packets. The United States reserved the right to charge ten cents for each single rate letter, and Hong Kong eight cents. On the Hong Kong side, letters for the ports mentioned, are to be delivered without extra charge.

This arrangement was sufficiently liberal to Hong Kong, since the expense of the long transportation was to be borne by the United States.

Lately

Lately the United States have reduced their charge to five cents, but, as has been mentioned, no reduction has been made on the Hong Kong side.

In writing upon this subject, my Canton correspondent referred to a report of the Post Master General at Hong Kong, in which he stated that if the "United States "should call upon us to lower "our postage by Pacific Mail to "two and one-half pence (5 cents) "we shall not be in a position "to refuse." In order to ascertain exactly what was said by him, I requested the Consul—

Consul General to procure the report alluded to, which he did. I inclose it herewith, with a pencil check against the remark quoted.

1/166.

Possibly this question may not be a practical one when this despatch reaches you, by reason of the expiry of the Pacific Mail Company's contract. But I cannot believe that our Post Office will not endeavor to make some arrangement for a continuation of our postal relations with China and Japan. I should be glad to have an early intimation of what is proposed for the information of our people in this part of the world

world. And perhaps the papers which I send herewith may be of some value to the Postmaster General in dealing with the subject.

I enclose a copy of this despatch, which, if in order, should be transmitted to the Postmaster General, but I am not able to send a second copy of the inclosure.

I have the honor to be,

Sir,

Your obedient servant.

Geo. F. Seward.

Enclosure.

Report of Postmaster General, Hongkong.

Despatch No. 166.
Inclosure.

No. 509.

United States Consulate General.
Shanghai 10th November 1876.

Honorable George F. Seward.
United States Minister.
Peking.

Sir.

In response to the inquiry made in your No. 27. which I have had the honor to receive, I have now to hand you a copy of the Postal Treaty with Hongkong of the 10th August 1867.

I inclose also a copy of the reports of the Post Master General of Hongkong of the 28th of August and 14th of September respectively.

I think that under the present system the Hongkong Government could well afford to charge a 5 cent postage rate from that colony to the United States, as it does not pay for transportation across the Pacific. Upon mails to

places

places beyond, but via the United States, it now receives its own rate of Eight cents. and affixed United States stamps for the postage from the United States to the country of destination, thus having under the present arrangement a revenue without cost.

The contract with the Pacific Mail S. S. Co. expires with this year, and I am not in a position to offer any reliable information upon the facilities if any, which will be afforded for mail transportation across the Pacific, or how the rates of postage would be effected under such new arrangements. Should I obtain any information of value in that connection, I will gladly impart the same to you.

I have the honor to be,
Sir.
Your Obedient Servant.
John C. Myers
Consul General.

Legislative Council

Hongkong, September 21st 1876.

RESOLUTION TO JOIN THE POSTAL UNION

The Governor: The next subject that I have to bring before the Council is one that has been the inducement to put you to the inconvenience of coming here on this occasion. It is the proposal from the Secretary of State in reference to this Colony entering into the Postal Union. The papers with reference to this subject have been circulated among the unofficial members of the Council, so that I need not enlarge much upon it, the other members being acquainted with the matter. I think probably that the clearest mode of putting the matter before the Council will be to read two reports from the Postmaster-General which give a *resumé* of the whole affair, and place it in a much clearer light before the Council and public than would any explanations of mine. The Clerk of the Councils will read the two reports.

Mr Wodehouse then read the two reports as follows:—

1. The history of this question, so far as Hongkong is concerned, may conveniently commence in the year 1874.

2. In that year the Government of Singapore endeavoured to obtain a reduction of Postage, both to England, and local by P. & O. vessels. It pointed to Sir Andrew Clarke that the rates to England should be assimilated to those in force in Australia (6d and 9d.), or at least to those in India (8d. and 1/), instead of being the same as those to and from China, 1/ and 1/8d.

3. The Home Government pointed out that India was contributing £30,000 a year towards the P. & O. subsidy, being the estimated half loss on the Indian share of the Contract; that the Australian Colonies had contributed for some years, and had now subsidised lines to Galle, Singapore, and San Francisco at their own expense; that Singapore contributed nothing; and that no considerable increase of correspondence could result from a lowering of the rates.

4. In the course of the correspondence, the question was raised, what should each Colony contribute as its share of the loss to the Imperial Government. A return was prepared by the London Post Office which shewed that, after allowing £104,760 as the estimated expense of service to "Places in the East other than British Colonies" (including, it is presumed, the Ports of China and Japan) Hongkong's annual share of the loss was £24,200, and if the Postage had been lowered to 9d. and 1/., this sum would have been increased to £27,000 per annum, of which sum Hongkong, like India, should have contributed half. But if, on the plea that the service is kept up very much in Imperial interests, the Home Government had accepted one quarter of the amount only, as a contribution from this Colony, the yearly total would have been £6,750.

5 It is almost needless to say that the subject was dropped at Singapore, and that the Government of this Colony, which had not raised the question, saw the advisability of not moving in the matter of Postage unless absolutely compelled to do so.

6. Towards the end of 1874 a Postal Treaty was concluded at Berne. It may be said to have included Europe, the United States, and Egypt in the first instance, and its object was to provide a uniform and low rate of postage (2½d. per ½oz. for letters) between all countries of the Postal Union then formed, as well as uniform rules as to the various classes of correspondence, their treatment, transmission, &c.

7. A copy of the Treaty and of the Detailed Regulations for carrying it out were received in this Colony early in 1875. They were accompanied by a Treasury Minute, suggesting that copies should be sent to the larger Colonies, such as Canada, the Australian Colonies, and New Zealand. A clause in the Treaty provided for the entry of such countries in the Union, but the Lords of the Treasury remarked that they would regard the reconsideration of the question of Contributions by Colonial Governments as an indispensable preliminary to the admission of the Colonies to the Union.

8. By some oversight, no copy of this Treasury Minute ever reached my predecessor, indeed it was not until quite lately that I succeeded in finding it. Mr Mitchell therefore looked upon the Treaty of Berne as a purely European arrangement, and merely filed his copy amongst other papers with the remark that it did not affect us at all. Lord Carnarvon's despatch was not even answered, but there was really nothing to be done except to await the action of the Home Government. Hongkong was not referred to as one of the larger Colonies which were to be invited to join the Union, and was certainly not in a position to press for admission to it, in total ignorance of what the terms of admission would be. Naturally, however, a communication from the Home Government was awaited with considerable anxiety.

9. During 1875 the London Post Office submitted to all the Colonies a scheme for lowering the rates of Postage to the various countries of the Continent, via Brindisi.

This scheme was accepted by the Government of Hongkong at some sacrifice of revenue (though not of so much as was anticipated), and a uniform 9d. rate to the Continent via Brindisi came into force on January 1st 1876, soon followed by a 9d. (½ oz) rate via Marseilles. As both these changes were made under the Treaty, it was thought possible that Hongkong had received its share of attention, and that nothing further would be done.

10. On June 17th, however, a despatch was received from Lord Carnarvon defining certain conditions on which Hongkong might be admitted into the Postal Union. As far as could be gathered from the somewhat meagre information supplied, Hongkong (including China and Japan) would enjoy a uniform rate of 6d. per half-ounce letter to the United Kingdom, the Continent of Europe, North America, perhaps parts of South America, nearly all the Coast of Africa, and possibly the Australian Colonies, though this rate would probably be increased to 8d. when a transit by Brindisi or by Marseilles was involved. In return for this Hongkong was to pay half the *additional* loss involved or £6,300 per annum.

11. A few days previous a telegram to the following effect had anticipated the despatch referred to above:—"Telegraph whether your Government accepts proposal of Circular April first, Postal Union. Most desirable accept these favourable terms immediately."

12. The matter was referred to this Department for Report. It was then pointed out that whereas Hongkong is the only Colony which has to serve other places, namely the Ports of China and Japan, no other Colony's contribution had been assessed at so high a rate. Ceylon, for instance, had to pay £1650 a year, the Straits Settlements £2500. That Hongkong would, in effect, be paying the postage on correspondence from Shanghai, Yokohama, &c., and that, besides sacrificing all Postal Revenue, the Colony would, in the three years which must elapse before the P. & O. Contract expires, have lost at least £7,000. Finally, half the proposed contribution, or £3,150 per annum was suggested as a fair sum for Hongkong to pay. This estimate was based on the fact that, of every outward Mail, about half is for Hongkong and half goes North.

13. A reply was sent home by Telegraph to the following effect: "26th June. Postal Circular received. Estimated loss for Hongkong should, like Straits and Ceylon, be specified separately, as this Government has no means of exacting contributions at Chinese and Japanese Ports. Reply on this head desirable. Further explanations by Mail."

14. It will be observed that in the above the suggestion of half the proposed contribution was not alluded to.

15. Nevertheless on the 7th August a telegram was received from London as follows: "Postal Union charge to Hongkong will be £3,150 per annum. Despatch by Mail."

16. Thus the same sum has been independently hit upon both at London, and by this department.

17. The despatch transcribing the above Telegram has now arrived, but it throws no additional light on the matter.

18. The following particulars, however, may be taken for granted:—If Hongkong accepts the proposal now made, the postage to the United Kingdom, the Continent of Europe, North America (including Canada &c.) all French, and most British Colonies, will be 6d. per half-ounce letter, or 8d. via Brindisi or Marseilles. Whether Australia, New Zealand, &c. will be included is doubtful as yet.

19. Nothing whatever is said about the Ports of China and Japan. But I cannot suppose for a moment that the Home Government contemplates excluding them. And it must not be supposed that Hongkong, in paying £3150 per annum, will be paying for Shanghai and Yokohama. Hongkong will only be paying a very moderate charge for certain privileges which, however, Shanghai and Yokohama will get at the expense of Great Britain.

20. I have already recommended that the proposal be accepted. It will very nearly swallow up the $20,000 per annum at which the net profit of the Post Office may be estimated, but, when the Postal Union scheme is fairly established, I do not believe there will be a Post Office anywhere making any considerable profit, and it is not likely that Hongkong will be allowed to go on making any.

ALFRED LISTER,
Postmaster General.

General Post Office,
August 28, 1876.

No. 82. General Post Office,
Sept. 14, 1876.

SIR,—It appears to me that some further details as to the Revenue of this Office and the way in which it is raised may not be out of place in the consideration of questions referring to the General Postal Union. I have therefore the honour to supply such detailed information as follows:—

(2.) With the exception of about £1000 per annum derived from the rent of boxes in the Offices of Hongkong, Shanghai, and Yokohama, the Revenue of the Post Office is derived almost entirely from the sale of Stamps, and from Postage fees on unpaid letters, &c.

(3.) During the year 1875, the gross Revenue thus raised was $173,381.93, which was thus disposed of:—

Credited to London Office on behalf of Great Britain, and other Countries, for Sea Conveyance, &c., ...	$110,894.43
Expenditure (not including Crown Agents' accounts), ...	36,335.47
Net Profit to Hongkong, ...	26,152.03
	$173,381.93

(4.) In conducting the business of the Post Office the accounts, if any, are kept through the London Office. Thus no account is kept with France, Italy, India, &c., London receiving all payments for those countries and adjusting matters with them. Every letter, for instance, which goes by Brindisi is subject to a claim of 2d. per ½ oz. for the Italian Post Office, but this claim is settled by London and the money recovered in a lump sum from Hongkong.

(5.) In treating of accounts, I shall confine myself to letters, because the same rules apply on the whole to papers and books, and it is from letters also that the chief revenue is derived.

(6.) There are three systems in vogue amongst the Post Offices of different countries for settling their respective claims. These are—

(a) Reciprocity, or no accounts at all.
(b) Accounting Letter by Letter.
(c) Accounting by bulk weight.

The first is the system which, as civilisation spreads, and the idea of making gain out of the Postal service dies out, will become more and more adopted, but unfortunately it is generally inapplicable where expensive sea conveyance is provided by one country only. The second is both antiquated and troublesome, but has the advantage of being absolutely correct. The third is almost universally adopted where payment for sea conveyance has to be made.

(7.) To these methods the Berne Conference proposes to add a fourth, viz., that of paying commuted sums calculated from the Mails of one fortnight during the year. This is intended to simplify the accounts and facilitate the despatch of Mails.

(8.) Reciprocity exists between this Office and most countries with which correspondence is exchanged by private ship, as also between Hongkong and the United States. In other words each Office keeps all its own collections, and delivers the correspondence of the other free. In the case of the United States, that country, with great liberality, provides the whole of the sea conveyance both ways. In the case of the Ports of China and Japan, Manila, &c., this Office gets the Postage at both ends, as Hongkong stamps are used at these places. Any increase of correspondence is therefore a direct gain to Hongkong wherever the Reciprocal arrangement exists.

(9.) The profits made on the Reciprocal system by private ship are subject to a charge for gratuities to the Captains, the gratuity being 2d. per Letter irrespective of weight, and ½d. for every other Article of correspondence. Those gratuities are generally paid here on correspondence *received* only, but in the case of our own Offices at Swatow, Amoy, &c. we pay both ways. The present rate of gratuity is extravagant, and, as far as I know, unprecedented. I hope the new Post Office Ordinance will reduce it, and, what is better, leave it easily alterable without legislation. Considerable sums in the way of gratuities unclaimed revert to the Treasury.

(10.) Accounting Letter by Letter takes place on the correspondence to Australia by Contract Packet, and the intermediate Ports on the P. & O. route by P. & O. packet. In these cases each letter is marked with the actual postage paid, and, in closing the mail, account is taken of the Total Postage, from which the proper portion is credited to London. Thus London gets 10d. out of every shilling rate paid on Australian correspondence, the 2d. left to Hongkong being supposed to pay for despatching the letter and *delivering the reply*, as on the return correspondence we get nothing. An increase of this class of correspondence *despatched*, therefore, is the only thing that could benefit this Office. But in the case of Shanghai, Yokohama, Singapore, Galle, &c., as far as Malta, we charge 4d. a letter and credit London with 4d, merely losing the exchange. Therefore any increase of correspondence despatched to these places by British Packet means loss to Hongkong. The Singapore Office has been wiser, and charges 6d. to all these places, of which sum it keeps 2d. We may perhaps be able to do this to Ports between Galle and Malta inclusive, but it would not now be tolerated to Singapore, Shanghai, or Yokohama. The great objection to accounting letter by letter is the great amount of trouble it causes, and of delay in closing the Mails.

(11.) Accounting by bulk weight is the plan paid between this Office, Great Britain, and the Continent by French Packet. It is simply an easy equivalent for accounting letter by letter. Instead of counting up the actual postage paid, the correspondence is weighed in bulk and the necessary credit is given at so much an ounce or so much a pound. Thus on letters to England via Southampton we credit London with 2/9d. an oz. If the rate of accounting be fixed too high the despatching office will of course lose, as is the case at present on correspondence to Egypt by French packet. The public pays 1/ per ½ oz. and this office accounts for 3/1d. per oz. An increase of correspondence is not profitable here. This will now, I hope, soon be set right.

(12.) It may be asked, what check has the London Office on the correspondence of the accounts rendered? Each mail is accompanied by a Letter Bill, on which the weights of correspondence, amount to be credited, &c. are entered. This should be verified by the Receiving office, and when verified the Bill is sent on to London. A *Statement of Errors* is sent to each office for adjustment monthly.

(13.) With regard to Letters despatched to and received from Great Britain and Europe by Contract Mail, this Office is not entitled to make more than 1d. on each half-ounce letter *whether received or despatched*. The London Office credits us with 2⅝d. per ounce on all the paid letters it sends via Southampton, which sum represents about 1d. per half-ounce letter. By Brindisi or Marseilles the credit is 2$\frac{11}{20}$d. an ounce.

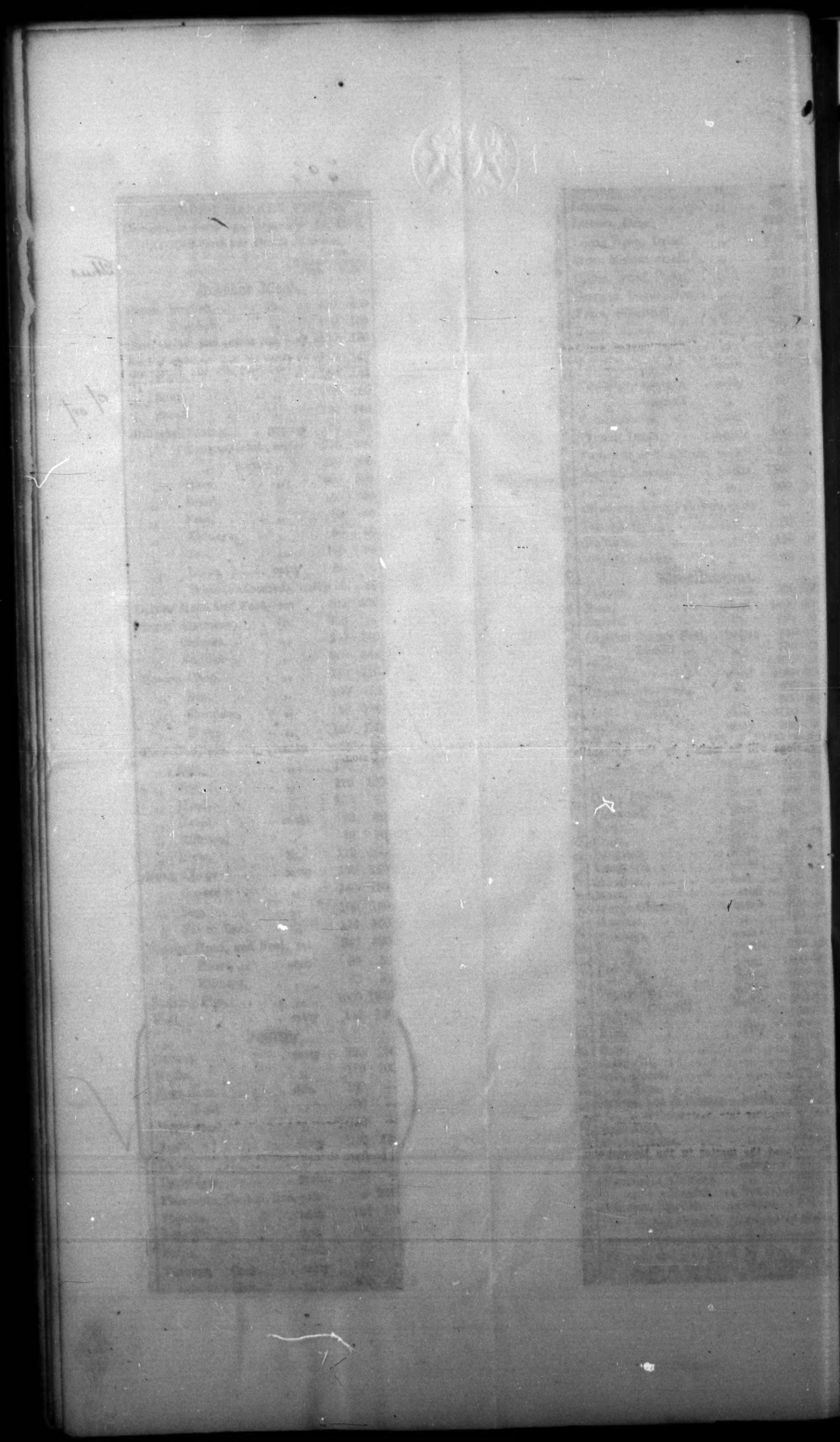
(14.) I should wish to be perfectly distinct as to what becomes of the funds paid for Letters *despatched*. A person posts a letter for Glasgow via Brindisi at this Office and puts a 28-cent stamp on it, what becomes of the 28 cents?

(15.) Of the 1/2d. so contributed one penny only belongs to Hongkong, 2d to Italy, and 11d. to London. The claims of Italy and London are joined together and defrayed by this office crediting London with 3/1$\frac{7}{10}$d. per ounce on the correspondence of which the letter in question forms a part. I need hardly point out that such a rate as this 3/1$\frac{7}{10}$d. per ounce can only leave this office its penny because many letters are posted which are not nearly full weight. The Office gains on light letters and loses on heavy ones.

(16.) The business of the Hongkong Office then, with regard to Europe, is a commission business, in which the commission is not so much per cent., but so much *per letter*. Reductions of Postage to Europe, therefore, will not affect the Revenue of this Office so long as this Commission remains constant. And, as far as I can gather from the very meagre details supplied, we shall still get our penny.

(17.) But yet I apprehend some diminution of Revenue, because at present, in many cases, we are getting more than our penny and used to be getting very much more. The rates charged to the Continent before January 1st were simply exorbitant; they still afford more profit to this office than I imagine the Postal Union Tariff will leave us. And if the United States should call upon us to lower our Postage by Pacific Mail to 2½d, we shall not be in a position to refuse.

(18.) It will be observed that I do not fear not being able to make a legitimate profit, but in past years this Office has made much more than a legitimate profit. For example, it charged 7d. for a half-ounce letter to Shanghai by French packet and credited London on behalf of France 6d. an ounce! Most of these sources of extra gain have disappeared, a few however still re-



main, but in the general revision which will take place they are certain to disappear also.

I have, &c.,

ALFRED LISTER,

Postmaster General.

P.S.—I should add that the only correspondence on which I hardly see where the Colony's penny is to come from is Correspondence *from* foreign Countries. We may be asked simply to deliver this free. But the amount involved is small as compared with the London Correspondence, and the slight increase in the number of letters despatched may help to make up for it. And we shall keep the whole postage on unpaid letters; at present we only keep our penny.

I think that in replying to the Secretary of State's Despatches it should be stated that this Colony, whilst consenting to pay £3150 per annum, takes for granted that the Commission of one penny per half-ounce letter on correspondence despatched to or delivered for the London Office will, as far as possible, be maintained unaltered.

The Governor: After having heard these two reports I have only to say, as regards myself, personally, that at first I was very reluctant to bring this matter before the Council with a recommendation to adopt it, but on further consideration I came to the conclusion that, like every other question, there were two sides to this one, and now, after a very full consideration of the matter, I have no hesitation in bringing it before this Council and recommending it very heartily for your adoption. Calculations have been made and put before me to satisfy me that the saving of the general public from the adoption of this proposal will amount to a considerably larger sum than the subsidy which we are now asked to pay. It is true that these savings will be mainly by the mercantile and banking community, but, on the other hand, I think this is a fair charge upon the general revenue of the Colony, because all classes here derive their subsistence more or less from the prosperity of the mercantile and banking portion of the community, and therefore I have no qualms of conscience in making this a charge upon the general revenue. The amount that will be saved, as I have before stated, will, I have no doubt from calculations that have been placed before me, and which possibly at a future time may be published, exceed the charge considerably, and that this is a measure in the right direction. If we refused to adopt this proposal, I think it highly probable that we should be the only Colony that refused to do so; still being the most distant Colony, and the most expensive one to which letters are carried, we should probably have greater reason than others for sending in a refusal. I think the charge may be borne without any additional taxation, and I am sure it will be a great advantage to the community generally. I have only, in conclusion, to ask the Council to consider this matter. Most of the members are, I think, very well acquainted with it already. The Postmaster-General has placed the matter in the clearest and most impartial way before the Council and myself, and I would ask the Council to pledge itself, by a resolution, that it will make good the ways and means for paying that subsidy, so as to enable me to telegraph to Her Majesty's Government that we accept this offer. It is important that this should be done at once; the delay that has hitherto occurred was unavoidable. I have no further remark to make, but the Postmaster General will be ready to answer any question that may be put to him.

Mr Ryrie asked the Postmaster General whether the postal rates were fixed here or in London.

Mr Lister said they were suggested in London and fixed here.

Mr Ryrie asked why they had a 4d. rate locally.

Mr Lister said it was fixed here when this was an Imperial Post Office; the 4d. rate was charged for Imperial purposes. When the Post Office was converted into a Colonial one, the Colony wished to have a penny out of that 4d., but the Home authorities replied, you cannot have a penny out of it, but you may charge another penny if you like. For some reason or other that did not seem to have been done, but it was distinctly put to this Colony that they might impose their penny on the 4d. rate.

Mr Ryrie said they might have made it nine cents, and have secured a small profit. Mr Lister said it was not done. The reasons probably were that the subject was little understood at the time. Mr Mitchell had not taken over the office very long, and he had not had any experience in the office previously, and there was a reluctance to move for fear of making a mistake.

The Governor said that subject was not before them then. The question before them was whether they would accept the proposal of the Secretary of State to enter this Postal Union by paying a subsidy of £3,150 a year. The other questions could be dealt with at another time, and no doubt it was desirable that they should if possible ensure themselves against loss. He did not know whether the public were acquainted with the whole matter, as he was, but he thought it could be clearly shown that instead of the Colony being a loser, taking the community generally, they would be absolutely gainers by joining the Union.

Mr Ryrie: Not gainers in revenue?

The Governor: Not exactly; but the community generally, gains. I have no manner of doubt in my own mind on the subject. At first I was reluctant to move in the matter; I thought it was rather a large demand to make upon us, but I now think the change is both politic and expedient, and I am quite satisfied that it will be beneficial in its results.

Mr Ryrie: Do you think the revenue is elastic enough to bear this charge without increasing it.

The Governor: I think I can see my way to that, and from all that has occurred during the last year and is likely to occur, I think we have no reason whatever to have any doubts about it, but in case we find that it is not so, I think we shall have a fair case to lay before Her Majesty's Government, and possibly we may be able to get a portion of that sacred fund which is guarded with such care, if nothing else.

Mr Ryrie said that if there was no extra taxation involved in the matter, he should certainly be prepared to vote for the proposal.

The Governor: I have no fears about it whatever; and I think a unanimous vote on this occasion will put us on a better position to make claims of another description. I will propose that the offer of the Secretary of State be accepted.

Mr Austin seconded the motion.

The Governor: I will propose the resolution in this form. Resolved, that the Council accepts the offer of the Secretary of State to enter into the Postal Union at a cost of £3,150 per annum.

The resolution was unanimously carried, and the subject then dropped.

File

Mr Payson

Telegram.

Peking. Nov. 26, 1876.

Fish,

Secretary, Washington.

Telegram fourth received, Diplomatic body considered # Chefoo agreement. Joint statement by mail.

Seward.

Sent through U.S. Min. at Berlin.

See 545 from Legation at Berlin.

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